



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.6043 of 2021

and

W.M.P. (MD) Nos.4720 & 4721 of 2021

T.K.Rahmaniya Habeeba

... Petitioner

-vs-

1.The District Educational Officer
Paramakudi, Ramanathapuram District

2.The Block Educational Officer
Kamuthi, Ramanathapuram District

3.The Correspondent
Abiramam Elementary School
Abiramam, Kamuthi Taluk
Ramanathapuram District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the first respondent in his proceedings in ஓ.மு.எண்.5488/ஆ2/2020, dated 23.12.2020 and quash the same as illegal and consequentially to direct the respondents 1 and 2 to approve the appointment of the petitioner as Secondary Grade Teacher w.e.f.03.06.2019 and pay arrears of salary with all consequential benefits arising thereon.

For Petitioner : Mr.C.Venkatesh Kumar.C.
For M/s.Ajmal Associates

For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
assisted by Mr.S.Shanmugavel
Government Counsel for R1 & R2

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order, dated 23.12.2020, passed by the first respondent and to direct the respondents 1 and 2 to approve the appointment of the petitioner as Secondary Grade Teacher with effect from 03.06.2019 and to pay arrears of salary with all consequential benefits arising thereon.



2. According to the petitioner, on 02.06.2019, she was appointed as a Secondary Grade Teacher in the third respondent School in the vacancy arose due to the superannuation of one Alipathu Beevi, a Secondary Grade Teacher. Thereafter, on 18.06.2019, the third respondent School submitted a proposal to the second respondent seeking approval for appointment of the petitioner. The second respondent, vide proceedings dated 01.11.2019, returned the proposal to rectify certain defects. The third respondent after rectifying the defects pointed out by the second respondent, resubmitted the proposal on 12.11.2019. However, again the said proposal was returned by the first respondent vide order dated 23.12.2020 by relying on G.O.Ms.No.165, School Education Department, dated 17.09.2019. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that based on the interim order, dated 09.04.2019 in W.A.(MD) No.76 of 2019, granted by the Honourable Division of this Court, the said G.O.Ms.No.165, dated 17.09.2019 was passed. Thereafter, the said writ appeal was taken up for final disposal and the same was disposed by Judgment dated 31.03.2021. Therefore, the impugned order dated 23.12.2020 is liable to be set aside. The learned counsel for the petitioner would further submit that there is no surplus teacher in the third respondent School and the reason as stated in the impugned order is unsustainable in the light of the final orders passed in the aforesaid writ appeal and therefore, prayed for setting aside of the impugned order.

4. Heard Mr.Veera.Kathiravan, learned Additional Advocate General, assisted by Mr.S.Shanmugavel, learned Government Counsel, appearing for the respondents 1 and 2 on the above submissions.

5. On perusal of the impugned order, it is seen that the proposal submitted by the third respondent School seeking approval for appointment of the petitioner as Secondary Grade Teacher was returned stating that as per the direction issued by the Honourable Division Bench of this Court, by order dated 31.03.2021 in W.A.(MD) No.76 of 2019 etc. batch, no appointment shall be made in the Aided Private Schools till surplus teachers are deployed and the School Management should produce certificate stating that there is no surplus teacher in their school at the time of filling up the vacancy concerned. Therefore, this Court is of the view that the third respondent School has to make necessary explanation before the second respondent regarding compliance with the conditions as required for approving the post of Secondary Grade Teacher.

6. In the result,

- (i) The writ petition is allowed;
- (ii) The impugned order dated 23.12.2020 is quashed;
- (iii) The matter is remitted back to the file of the first respondent for fresh consideration;



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- (iv) The third respondent School is directed to make explanation before the first respondent regarding compliance with the conditions as required for approving the post of Secondary Grade Teacher forthwith.
- (v) If any such explanation is submitted, the first respondent shall consider the same and pass orders on merits and in accordance with law, within a period of twelve weeks thereafter.
- (vi) No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

- 1.The District Educational Officer,
Paramakudi,
Ramanathapuram District.
- 2.The Block Educational Officer,
Kamuthi, Ramanathapuram District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-29900[F] dated 22/09/2021)

+1 CC to M/s.SPL.GP (SR-30055[F] dated 23/09/2021)

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