



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.6488 of 2020

and

W.M.P. (MD)No.5808 of 2020

WEB COPY

Antony Mercy

... Petitioner

vs.

1.The Secretary to the Government,
Department of School Education,
St. George Fort, Chennai.

2.The Director of School Education,
DPI Compound,
College Road, Chennai.

3.The Chief Educational Officer,
Tenkasi - 627 811,
Tenkasi District.

4.The District Educational Officer,
Tenkasi - 627 811,
Tenkasi District.

5.The Block Educational Officer,
Keelapavur,
Tenkasi District.

6.The Manager,
Hindu Primary School,
Vellaipanaieripatti,
Mettur (PO), Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in respect of order passed by 5th respondent in O.Mu.No.295/91 dated 16.03.2020 and quash the same and consequently direct the 5th respondent to approve the appointment of the petitioner and disburse all the service and monetary benefits from the date of the appointment (i.e., 01.08.2019).

For Petitioner : Mr.S.Chellapandian

For Respondents : Mr.K.S.Selvaganesan,

Government Advocate for R1 to R5.

ORDER

This Writ Petition has been filed challenging the order of the fifth respondent in O.Mu.No.295/91 dated 16.03.2020 and for a consequential direction to the fifth respondent to approve the



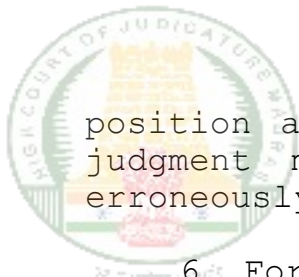
appointment of the petitioner and disburse all the service and monetary benefits from the date of the appointment (i.e., 01.08.2019).

2. According to the petitioner, the sixth respondent school is a Minority aided School. In the sixth respondent school, one post of Secondary Grade Teacher fell vacant on 31.07.2019, due to the retirement of the previous incumbent Santhi. In that vacancy, the sixth respondent school appointed the petitioner as Secondary Grade Teacher w.e.f., 01.08.2019. The sixth respondent school submitted a necessary proposal to the fourth respondent for approving her appointment and disburse grant-in-aid towards her salary. The same was forwarded to the fifth respondent. On receipt of the communication of the proposal, the fifth respondent without giving an opportunity, rejected the same on 16.03.2020, stating that in W.A.(MD)Nos.76 of 2019 etc., batch, this Court, by order dated 09.04.2019, directed the respondents "unless surplus posts are deployed in needy school, do not approve the appointment made in the corporate management till then" and the same is pending for adjudication and further stated that the petitioner do not possess the TET qualification. Hence, the petitioner has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that the reason given in the impugned order is unsustainable, in view of the subsequent order of the Division Bench of this Court in W.A.(MD)No.76 of 2019, dated 31.03.2021. In the said order, this Court has held that G.O.Ms.No.165, School Education Department, dated 17.09.2019, issued in compliance of the interim order dated 09.04.2019, referred in the impugned order, as inoperative and therefore, prayed for setting aside the impugned order.

4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 to 5 and perused the materials carefully.

5. A reading of the impugned order shows that the fifth respondent has rejected the request of the sixth respondent school for approval of appointment of the petitioner as Secondary Grade Teacher in the sixth respondent school, referring to the order of the Division Bench of this Court dated 09.04.2019, made in W.A.(MD) Nos.76 of 2019, etc. batch. In compliance of the above said order, the Government issued G.O.(Ms)No.165, School Education Department, dated 17.09.2019, with regard to re-deployment of surplus teachers. A Division Bench of this Court, vide interim order dated 20.09.2019, in W.A.(MD)Nos.76 of 2019, etc., batch, suspended the operation of the said Government Order until further orders. Subsequently, another Division Bench of this Court, vide Judgment dated 31.03.2021 made the said Government Order as inoperative, in the very same writ appeals. The fifth respondent, without considering the above legal



position and subsequent order of this Court, dated 20.09.2019 and judgment made in the very same writ appeal dated 31.03.2021, erroneously rejected the proposal of the sixth respondent school.

6. For the above reason, the impugned order is liable to be set aside and accordingly, the impugned order passed by the fifth respondent vide impugned proceeding in O.Mu.No.295/21 dated 16.03.2020, is hereby set aside. The respondents are directed to approve the appointment of the petitioner in the sixth respondent school, if she is otherwise eligible and pass orders, in the light of the guidelines issued by the Division Bench of this Court in W.A. (MD)No.76 of 2019, etc., batch, dated 31.03.2021 within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7. This Writ Petition is allowed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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 Secretary to the Government,
Department of School Education,
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College Road, Chennai.
- 3.The Chief Educational Officer,
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- 4.The District Educational Officer,
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Tenkasi District.



5.The Block Educational Officer,
Keelapavur,
Tenkasi District.

+1 CC to M/s.SPL GP (SR-21713[F] dated 08/07/2021)

+1 CC to M/s.S.CHELLAPANDIAN, Advocate (SR-22012[F] dated
09/07/2021)

W.P (MD) No.6488 of 2020 and
W.M.P. (MD) No.5808 of 2020
07.07.2021

SSS (CO)
KB (26.07.2021) 4P 8C