



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.8134 of 2021

S.Selastin Mary

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai-600 009.

2.The Director of School Education,
College Road,
Chennai-600 006.

3.The Chief Educational Officer,
Chief Educational Office,
Nagercoil,
Kanyakumari District.

4.The District Educational Officer,
District Educational Office,
Kuzhithurai,
Kanyakumari District.

5.The Correspondent,
St. Aloysius Higher Secondary School,
Marthandanthurai,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to approve the petitioner's service as B.T.Assistant (Tamil) from the date of petitioner's initial appointment that is from 04.06.2007 and regularise the period from 04.06.2007 to 01.06.2008 and to pay arrears of salary and all attendant benefits consequent to the same within a stipulated time that may be prescribed by this Court by considering the proposal re-submitted by the 5th respondent, dated 11.10.2019.

<https://hcservices.ecourts.gov.in/hcservices> For Petitioner : Mr.S.C.Herod Singh



For R1 to R4 : Mr.N.Shanmugaselvam
Additional Government Pleader

ORDER

This Writ Petition is filed to direct the respondents to approve the petitioner's service as B.T.Assistant (Tamil) from the date of petitioner's initial appointment that is from 04.06.2007 and regularise the period from 04.06.2007 to 01.06.2008 and to pay arrears of salary and all attendant benefits by considering the proposal re-submitted by the 5th respondent, dated 11.10.2019.

2.Mr.N.Shanmugaselvam, learned Additional Government Pleader takes notice on behalf of the respondents.

3. According to the petitioner, she has completed B.A., (Tamil) in April 1998 and also has completed B.Ed., in April 2000 and thereafter, she has completed M.A., (Tamil) in May 2001. She is eligible to be appointed as B.T.Assistant (Tamil) in the fifth respondent School. There was a vacancy arose due to the retirement of one S.Pushparaj Rebeira, who retired on 31.05.2007 and relieved after completion of re-employment on 31.05.2007. The fifth respondent, considering the qualification of the petitioner, appointed her as B.T.Assistant (Tamil) with effect from 04.06.2007, by its appointment order, dated 04.06.2007. From the date of appointment, she is discharging her duty sincerely, diligently without any misconduct. While so, the fifth respondent inadvertently, sent a proposal to approve the appointment of the petitioner from 02.06.2008 instead of 04.06.2007. The petitioner was appointed in a sanctioned post and she is working from 04.06.2007 in the fifth respondent school. The fifth respondent ought to have sent a proposal for approval from 04.06.2007. In pursuant to the proposal sent by the fifth respondent, the fourth respondent approved the appointment of the petitioner from 02.06.2008. The petitioner was appointed in a sanctioned post, hence, she has approached the sixth respondent for approval of her appointment from 04.06.2007 and submitted a representation to the fifth respondent. In pursuant to the same, the fifth respondent, after verifying the documents, by proceedings in Na.Ka.No.33/2017, dated 22.12.2018, submitted a proposal to approve the appointment of the petitioner from 04.06.2007 by rectifying the earlier error. Without considering the un-blemished record of service and the fact that the petitioner was appointed on 04.06.2007, the fourth respondent by the proceedings, dated 08.05.2019 in Oo.Mu.No.2818/A2/19 returned the proposal of the fifth respondent on the ground that the proposal to approve the appointment from anti-date is not permissible in official proceedings. The order of the fourth respondent is illegal and hence, the petitioner has come out with the present writ petition for a direction to the respondents to approve her appointment as B.T.Assistant (Tamil)



from 04.06.2007 and regularise the period from 04.06.2007 to 01.06.2008 and pay the arrears of salary and other benefits.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 & 4 and perused the materials available on record.

5. From the materials on record, it is seen that, according to the petitioner, she was appointed as B.T.Assistant (Tamil) in the sanctioned vacancy on 04.06.2007 due to the retirement of one S.Pushparaj Rebeira. Admittedly, the fifth respondent has sent proposal seeking approval of appointment of the petitioner with effect from 02.06.2008. The fourth respondent approved the appointment of the petitioner by the proceedings, dated 13.07.2009 in Na.Ka.No.991/A2/2009 to approve the appointment of the petitioner with effect from 02.06.2008. The petitioner and the fifth respondent accepted the same and acted on that basis. The petitioner has approached the fifth respondent only on 22.12.2018 for approval of appointment of the petitioner with effect of 04.06.2007, stating that due to the dispute among the members of Managing Committee, approval was sought for from 02.06.2008 instead of 04.06.2007 and sought for pre-dated approval of appointment of the petitioner from 04.06.2007. The fourth respondent after considering the proposal, dated 08.05.2019, rejected the same, by giving cogent and valid reasons. In such circumstances, the petitioner is not entitled to seek relief now sought for in the present writ petition, for approving her appointment from 04.06.2007.

6. In view of the same, the writ petition is devoid of merits and the same is liable to be dismissed. Accordingly, it is dismissed. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2020

Sub Assistant Registrar()

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,
Department of School Education,
Fort St. George,
Chennai-600 009.
- 2.The Director of School Education,
College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Chief Educational Office,
Nagercoil,
Kanyakumari District.
- 4.The District Educational Officer,
District Educational Office,
Kuzhithurai,
Kanyakumari District.

+1.C.C. to M/s.S.C.Herold Singh, Advocate in SR.No.16991/21
+1.C.C. to Special Government Pleader, SR.No.17173/21

W.P. (MD) No.8134 of 2021
21.04.2021

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RM 19/05/2021 (4P-7C)