



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.8615 of 2021

and

W.M.P(MD)No.6486 of 2021

S.Anita Jasmine

... 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-600 009.

3.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

4.The District Educational Officer,
Cheranmahadevi Educational District,
Tirunelveli District.

5.The Correspondent,
Concordia Higher Secondary School,
Vallioor,
Tirunelveli District.

6.The Hon'ble Administrator,
India Evangelical Lutheran Church/IELC-TA
No.47, Eldams Road,
Teynampet, Chennai-600 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the third and fourth respondents to approve the petitioner's appointment as P.G.Assistant (Commerce) in the fifth respondent school w.e.f.20.07.2015 with all attendant benefits including the arrears of salary and allowances.



For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers
For RR 1 to 4 : Mr.N.Shanmugaselvam
Additional Government Pleader

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ORDER

This Writ Petition is filed seeking a Writ of Mandamus, directing the third and fourth respondents to approve the petitioner's appointment as P.G.Assistant (Commerce) in the fifth respondent School w.e.f.20.07.2015 with all attendant benefits including the arrears of salary and allowances.

2.Mr.N.Shanmugaselvam, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 4. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.According to the petitioner, she was appointed as P.G Assistant (Commerce) in the fifth respondent School with effect from 20.07.2015. Immediately, after her appointment, the fifth respondent school submitted necessary proposal to the third and fourth respondents for approval of her appointment for the purpose of disbursement of grant-in-aid towards salary. The respondents 3 & 4 did not pass any order on the proposal. Hence, the petitioner filed a Writ Petition in W.P(MD)No.17405 of 2015 seeking a direction to the fourth respondent to pass orders on the proposal dated 03.08.2015. This Court by the order, dated 05.03.2018, directed the respondents therein to consider the proposal submitted by the fifth respondent School, in the light of the observations made by the Court, within a period of four months, after affording due opportunity to all the parties concerned.

4. In the meanwhile, a dispute arose with regard to the Management between two rival groups. In the litigation initiated by one of the groups, the Principal Bench of this Court, by an order dated 31.07.2018, appointed the sixth respondent as Administrator of IELC. The sixth respondent, after verifying the documents produced by the petitioner and her Service records, approved her appointment as P.G.Assistant (Commerce) with effect from 20.07.2015, vide proceedings, dated 17.06.2020. On the very same day, the Hon'ble Administrator submitted proposal to the third respondent CEO and the fourth respondent DEO requesting to approve her appointment as P.G.Assistant (Commerce) in the 5th respondent school from the initial date of appointment I.e., 20.07.2015 along with those of the other approved teaching and non-teaching staff for the purpose of disbursement of grant-in-aid towards salary, but the respondents 3 & 4 have not passed any orders. Hence, the petitioner has come out with the present Writ Petition.



5.The learned Additional Government Pleader appearing for the respondents 1 to 4 submitted that due to the internal dispute, the School was brought under direct payment system by the authorities. During that time, appointment was given and hence, the petitioner is not entitled for approval of her appointment from the date of her appointment and prayed for dismissal of the Writ Petition.

6.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 4.

7.From the materials available on record, it is seen that this Court in W.P(MD)No.17405 of 2015, by order dated 05.03.2018, directed the respondents therein to consider the proposal submitted by the fifth respondent within four months. The respondents 1 to 4 have not passed any orders on the proposal sent by the fifth respondent within the time frame fixed by this Court. In the meanwhile, due to the dispute with regard to the Management, the Principal Bench of this Court appointed the sixth respondent as Administrator. The sixth respondent has approved the appointment of the petitioner as P.G.Assistant (Commerce) and sent the proposal to the respondents 3 and 4 for approval of her appointment as P.G.Assistant (Commerce) with effect from 20.07.2015. In view of the proposal sent by the sixth respondent/Administrator, who was appointed by the Principal Bench of this Court, the respondents 3 and 4 are bound to consider the proposal submitted by the sixth respondent and approve the appointment of the petitioner as P.G.Assistant (Zoology) with effect from 20.07.2015.

8. In view of the above facts, the respondents 1 to 4 are directed to consider the approval of the appointment of the petitioner as P.G.Assistant (Commerce), taking into consideration the earlier order passed by this Court in W.P(MD)No.17405 of 2015, dated 05.03.2018, referred to above and pass orders on approving the appointment of the petitioner as P.G.Assistant (Commerce) with effect from 20.07.2015.

9.With the above observation, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

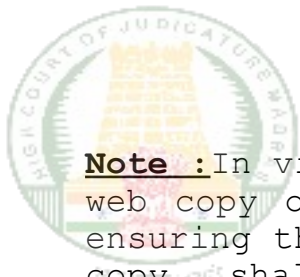
Sd/-

Assistant Registrar (TKP)

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/ /2021

Sub Assistant Registrar(CS)



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To

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Department of School Education,
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5. The Honourable Administrator,
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No. 47, Eldams Road, Teynampet, Chennai - 600 018.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-17874[F] dated
28/04/2021)

+1 CC to M/s.SPL GP (SR-18063[F] dated 29/04/2021)

**W.P(MD)No.8615 of 2021
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AS(08.06.2021)3P 8C