



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2021

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THE HON'BLE MR.JUSTICE R.MAHADEVAN

WP(MD)No.8181 of 2020

WEB COPY

S.Lisida Anna Jothi

... Petitioner

Vs.

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

2. The District Educational Officer,
Vallioor Educational District,
Vallioor, Tirunelveli District.

3. The Block Educational Officer,
Radhapuram Range, Radhapuram,
Tirunelveli District.

4. The Correspondent,
TDTA Primary School,
Ramangudi, Radhapuram Range,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus to direct the respondents 1 to 3 herein to implement proceedings dated 04.12.2019 of the Hon'ble Administrators and approve the appointment of petitioner as Secondary Grade Teacher in the 4th respondent school with effect from 05.12.2014 with all other attended benefits.

For Petitioner : Mr.T.Pon Ramkumar

For R1 to R3 : Mr.B.Saravanan, GA

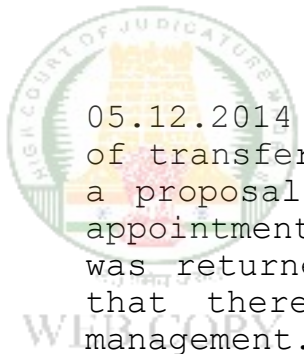
For R4 : Mr.P.P.Alwin Balan

O R D E R

The relief sought in this writ petition is to issue a mandamus directing the respondents 1 to 3 to implement the proceedings dated 04.12.2019 passed by the learned Administrators and approve the appointment of the petitioner as Secondary Grade Teacher in the fourth respondent school with effect from 05.12.2014 with all other attendant benefits.

2.According to the petitioner, she was selected and appointed as Secondary Grade Teacher in the fourth respondent school on

<https://hcservices.ecourts.gov.in/hcservices/>



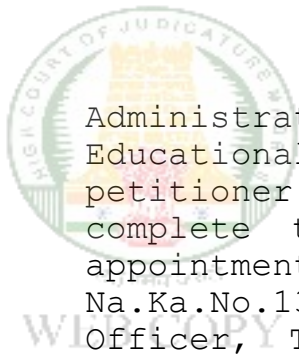
05.12.2014 against the sanctioned post, which fell vacant on account of transfer of one A.Daisy. Subsequently, the fourth respondent sent a proposal to the second respondent seeking approval of the said appointment through the third respondent. However, the said proposal was returned on 22.02.2017 by the second respondent on the ground that there are surplus teachers working in the TDTA corporate management. Hence, the petitioner made a representation to the learned Administrators, who after having conducted enquiry, directed the respondents 1 to 3 to approve the appointment of the petitioner with effect from 05.12.2014 and release her salary within a period of two weeks, by proceedings dated 23.11.2019. Pursuant to the same, the fourth respondent sent a proposal to the respondent authorities requesting to approve the appointment of the petitioner and release salary. Finding no response on the same, the petitioner has come up with this writ petition for the aforesaid relief.

3.Upon notice, the second respondent filed a detailed counter affidavit, wherein, it is *inter alia* stated that the main ground for rejection of the approval of the petitioner's appointment was that there are surplus teachers working in some other schools functioning under the TDTA Tirunelveli Diocese Management. It is further stated by this respondent that the approval power is always vested with the second respondent alone and hence, the petitioner cannot rely on the order of the Administrators to substantiate her claim seeking approval. It is also stated that the respondents have periodically issued instructions to all the private schools not to make fresh appointment when surplus teachers are still working within the same management and without following the same, the fourth respondent school has filled up the vacant post by way of fresh appointment, which causes unnecessary financial burden on the state Government. Thus, according to this respondent, the writ petition is not maintainable and the same is liable to be dismissed.

4.Heard both sides and perused the materials placed before this court.

5.The facts remain undisputed are that the petitioner was appointed as Secondary Grade Teacher in the fourth respondent school on 05.12.2014 against sanctioned post, which fell vacant on account of transfer of one A.Daisy. However, the said appointment was not approved by the second respondent on the ground that there are surplus teachers working in the TDTA corporate management. Feeling aggrieved, the petitioner filed a petition before the Administrators appointed by this court. By proceedings dated 04.12.2019, the Administrators directed the respondent authorities to approve the appointment of the petitioner and release salary within a period of two weeks. Even thereafter, the claim of the petitioner was not considered.

6.From a perusal of the documents enclosed in the typed set of papers, particularly, the proceedings passed by the



Administrators appointed by this court, it is seen that the Educational authorities returned the papers seeking approval of the petitioner's appointment to the management directing them to complete the deployment process and till such time, no fresh appointment is to be made. However, in the subsequent proceedings in Na.Ka.No.1335/E1/2018 dated 26.06.2019, the Chief Educational Officer, Tirunelveli, after taking note of the detailed report submitted by the management in the year 2018-19, with regard to deployment, granted approval for the appointments made by the management. Pursuant to the same, the petitioner was appointed as Secondary Grade Teacher against the sanctioned post in TDTA Primary School, Ramangudi, Radhapuram Range, after deployment of teachers of 323 schools in the TDTA Management Primary and Middle Schools. Further, there was no rival claim in respect of the said appointment. The Administrators also took note of the judgment dated 17.06.2015 passed by a Division Bench of this court in WA(MD)No.639 of 2015 etc. batch, wherein the Educational authorities were directed to pass orders on the proposal sent by the concerned Correspondent of TDTA Middle School seeking approval of the similar appointment made by them. Considering all these factors, the Administrators were of the view that upon completion of the deployment process, the management has appointed the petitioner in the sanctioned vacancy and hence, the same has to be approved by the respondent authorities. Therefore, the Administrators have rightly directed the respondent authorities to approve the appointment of the petitioner from the date of her appointment and release salary to her.

7.At this juncture, it is to be pointed out that the issues relating to the process of staff strength ratio, identification of excess staff, deployment of excess staff to the needy school, etc., were determined by a Division Bench of this court in WA(MD)No.76 of 2019 etc. batch on 31.03.2021, paragraph 95(v) of which, reads as follows:

"Like that insofar as aided minority institutions are concerned, if it is a stand alone institution, their right of appointing a teacher in a vacancy within the sanctioned strength for the academic year 2021-22 shall not be affected because of the identified excess teachers in other schools. At the same time, even if the school is a minority institution, however being administered by a joint management or corporate management, in respect of those schools, even though vacancy arose within the sanctioned strength of such school or schools under corporate management or joint management, those vacancies shall not be filled up unless the excess staff identified in all other schools under the same corporate or joint management are exhausted fully and only after exhausting the redeployment process on all excess teachers identified in the group of schools under the same corporate management,

<https://hcservices.courts.gov.in/hcservices/> be free to make appointment afresh from open



market in the vacancy if any still, within the sanctioned strength".

8.Applying the ratio laid down in the aforesaid judgment to the facts of the present case, wherein, the management has appointed the petitioner in the sanctioned post, after completing the deployment process and also pursuant to the approval granted by the Chief Educational Officer, Tirunelveli, by his proceedings dated 26.06.2019, this court has no hesitation to hold that the respondent authorities have to comply with the direction issued by the Administrators in their proceedings dated 04.12.2019. Accordingly, they are directed to approve the appointment of the petitioner as Secondary Grade Teacher from the date of her appointment by passing orders on the proposal submitted by the fourth respondent school and sanction salary and all other benefits to her, within a period of six weeks from the date of receipt of a copy of this order.

9.With the aforesaid directions, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
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Tirunelveli District.
4. The Correspondent,
TDTA Primary School,
Ramangudi, Radhapuram Range,
Tirunelveli District.

+1 CC to M/s.T.PON RAMKUMAR, Advocate(SR-25328[F] dated 05/08/2021)