



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.10432 of 2021

and

W.M.P(MD)No.8108 of 2021

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M.Nimodhas

... Petitioner

vs.

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

2.The District Educational Officer,  
Thoothukudi,  
Thoothukudi District.

3.The Correspondent,  
St. Marty's Boys Higher Secondary School,  
Milerpuram - 628 008,  
Thoothukudi District.

... Respondents

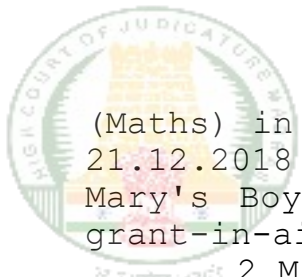
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the first respondent Chief Educational Officer in O.Mu.No.2145/A4/2019, dated .07.2019 and the consequential proceeding of the District Educational Officer in Moo.Mu.No.1685/A5/2019, dated ...09.2019 and the subsequent proceedings in O.Mu.No.1685/A5/2019, dated 22.11.2019, quash the same and further direct the first respondent Chief Educational Officer herein to approve forthwith the appointment of the petitioner as BT Assistant (Maths) in the sanctioned Maternity Leave Vacancy from 27.03.2018 to 21.12.2018 (270 days) in the third respondent School namely, St. Mary's Boys Higher Secondary School, Millerpuram and disburse the grant-in-aid towards her salary.

For Petitioner : Ms.A.Amala

For RR 1 & 2 : Mr.P.Subbaraj  
Government Advocate

**ORDER**

The petitioner has filed the present Writ Petition, to quash the impugned proceedings issued by the first respondent/Chief Educational Officer in O.Mu.No.2145/A4/2019, dated .07.2019 and the consequential proceedings of the second respondent/District Educational Officer in Moo.Mu.No.1685/A5/2019, dated ...09.2019 and the subsequent proceedings in O.Mu.No.1685/A5/2019, dated 22.11.2019 and further direct the first respondent/Chief Educational Officer to approve forthwith the appointment of the petitioner as BT Assistant



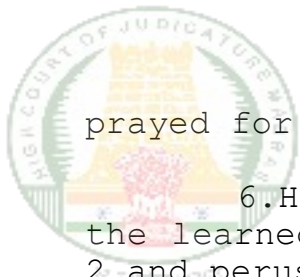
(Maths) in the sanctioned Maternity Leave Vacancy from 27.03.2018 to 21.12.2018 (270 days) in the third respondent School, namely, St. Mary's Boys Higher Secondary School, Millerpuram and disburse the grant-in-aid towards her salary.

2.Mr.P.Subbaraj, learned Government Advocate takes notice for the respondents 1 & 2.

3.According to the petitioner, the third respondent School is a minority Educational Institution. In the third respondent School, one Tmt.J.Selvi was working as BT Assistant (Maths) in the sanctioned post and was receiving grant-in-aid from the Government. She applied for maternity leave from 27.03.2018 to 21.12.2018 for 270 days. The third respondent School was having single post of BT Assistant (Maths). In view of the maternity leave vacancy, the third respondent School appointed the petitioner as BT Assistant (Maths) from 27.03.2018 to 21.12.2018 by the order, dated 27.08.2018. The petitioner discharged her duty as BT Assistant (Maths) in the third respondent School. The third respondent School sent a proposal to the second respondent, by letter, dated 18.03.2019, for salary to the petitioner, for the period from 27.03.2018 to 21.12.2018. The second respondent has forwarded the same to the first respondent. While so, the first respondent, by the impugned proceedings, dated Nil.07.2019 rejected the proposal seeking approval of appointment of the petitioner in the maternity leave post from 27.03.2018 to 21.12.2018, on the ground that the appointment should not be made, as there are surplus teachers available for the Academic Year 2018-19. Consequently, the second respondent, by proceedings dated Nil.09.2019, rejected the request of the petitioner. The third respondent again submitted the letter, dated 16.09.2019. Once again, the second respondent, by proceedings, dated 22.11.2019, rejected the claim of the petitioner citing the first respondent's proceedings. Challenging the same, the petitioner has come out with the present Writ Petition.

4.The learned counsel appearing for the petitioner submitted that the petitioner was not appointed under the regular vacancy and she was appointed as BT Assistant (Maths) in the sanctioned Maternity Leave Vacancy. The reason given by the second respondent for rejection of approval in the impugned order that there are surplus teachers for the Academic year 2018-2019. In support of her contention, the learned counsel appearing for the petitioner relied on the Government Order in G.O(Ms)No.198, Education, Science and Technology (D1) Department, dated 15.03.1995.

5.Mr.P.Subbaraj, learned Government Advocate appearing for the respondents 1 & 2 submitted that there are surplus teachers available for the Academic year 2018-2019. The third respondent School without getting any permission, appointed the petitioner in the maternity leave vacancy and hence, the approval sought for by the third respondent school is rejected and the same is valid and



prayed for dismissal of the writ petition.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2, and perused the materials available on record.

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7. From the rival submissions made by the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 & 2 and the materials placed on record, it is seen that the petitioner was appointed as substitute Teacher on 27.03.2018 for the period from 27.03.2018 to 21.12.2018 in the place of one Tmt.J.Selvi, B.T.Assistant (Maths), who availed maternity leave. The third respondent School sent a proposal for approval of the appointment of the petitioner as BT Assistant (Maths) for the above said period. The second respondent rejected the said proposal on the ground that there are surplus teachers for the Academic Year 2018-2019. The reason given by the second respondent is erroneous. The second respondent failed to see that the petitioner was appointed in the vacancy that arose due to the maternity leave of Tmt.J.Selvi from 27.03.2018 to 21.12.2018. It is not in dispute that the petitioner worked in the vacancy arose due to maternity leave availed by the regular incumbent Tmt.J.Selvi, who was appointed in the sanctioned post. Further, as per G.O.Ms.No.198, Education, Science and Technology (D1) Department, dated 15.03.1995, the Government permitted the School Authorities to appoint substitute teacher in the vacancy due to the availing of maternity leave by the incumbent. The petitioner having worked from 27.03.2018 to 21.12.2018 is entitled for the salary payable to the regular teacher.

8. For the above reasons, the impugned orders passed by the first and second respondents are set aside. The third respondent is directed to re-submit the proposal within a period of two weeks from the date of receipt of a copy of this order and on receiving such proposal, the respondents 1 & 2 are directed to approve the appointment of the petitioner as BT Assistant (Maths) in the sanctioned maternity leave vacancy from 27.03.2018 to 21.12.2018 in the third respondent School and disburse the salary within a period of four weeks, thereafter.

9. With the above observations and directions, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

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/ /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 Chief Educational Officer,  
Thoothukudi,  
Thoothukudi District.
- 2.The District Educational Officer,  
Thoothukudi,  
Thoothukudi District.
- 3.The Correspondent,  
St. Marty's Boys Higher Secondary School,  
Milerpuram - 628 008,  
Thoothukudi District.

+1 CC to M/s.SPL GP ( SR-20179[F] dated 24/06/2021 )

+1 CC to M/s.A.AMALA, Advocate ( SR-20280[F] dated 25/06/2021 )

**W.P (MD) No.10432 of 2021**  
**23.06.2021**

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