



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.10571 of 2021

and

W.M.P(MD)No.8228 of 2021

WEB COPY

A.Mohamed Alikhan

... Petitioner

vs.

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

2.The Chief Educational Officer,
Palayamkottai,
Tirunelveli District.

3.The Correspondent,
Amir Jamal Higher Secondary School,
Idyankulam,
Padmaneri Post Office,
Tirunelveli 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 pertaining to the impugned order in O.Mu.No.424/a3/2019, dated 19.03.2020 on the file of the first respondent and quash the same as illegal and consequently, directing the respondents to approve the appointment of the petitioner as B.T Assistant (English) in the third respondent School on the basis of the proposal sent by the said School on 16.07.2019 without insisting for qualification in the TET Examination in the light of the decision of the Hon'ble Supreme Court and in the light of G.O.Ms.No.79, School Education Department, dated 14.06.2002, with all consequential benefits.

For Petitioner

: Mr.E.Marees Kumar

For RR 1 & 2

: Mr.P.Subbaraj

Government Advocate

ORDER

The petitioner has filed the present Writ Petition, to quash the impugned order, dated 19.03.2020, passed by the first respondent and to direct the respondents to approve the appointment of the petitioner as B.T Assistant (English) in the third respondent School, on the basis of the proposal sent by the said School on 16.07.2019, without insisting for qualification in the TET Examination, in the light of the decision of the Hon'ble Supreme Court and also in the light of G.O.Ms.No.79, School Education Department, dated 14.06.2002, with all consequential benefits.



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

3.According to the petitioner, he is working as a B.T. Assistant (English) in the third respondent School, which is a recognized aided minority institution. In the third respondent School, one Secondary Grade Teacher post fell vacant on 03.06.2019, on account of retirement of the previous incumbent S.Pandaram. The said post automatically got upgraded as B.T.Assistant as per Government Orders, namely G.O.Ms.No.79, Secondary Education (U1) Department, dated 14.06.2002 and G.O.Ms.No.99, School Education Department, dated 27.06.2006. In the said vacancy, the petitioner was appointed as B.T. Assistant (English) with effect from 03.06.2019. Thereafter, the third respondent School submitted a proposal to the first respondent on 16.07.2019 for upgradation of the post of Secondary Grade Teacher to B.T. Assistant (English). The first respondent returned the said proposal by the impugned order, dated 19.03.2020, on the ground that the Secondary Grade Post was not upgraded as B.T Assistant. Challenging the same, the petitioner has come up with the present Writ Petition.

4.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.

5.The petitioner challenges the order of the first respondent, dated 19.03.2020, in and by which, the proposal for approval of appointment of the petitioner from 03.06.2019, was returned on the ground that to re-submit the proposal along with the order relating to upgradation of post from Secondary Grade Teacher to B.T Assistant (English). The said question is no longer *res integra*. A Division Bench of this Court in W.A(MD)No.1497 of 2017 had extracted the order of the learned Single Judge of this Court made in W.P(MD)No.3570 of 2017, which reads as follows:

"8.Therefore, when it is an admitted case that when one Mr.Pauldurai working as Secondary Grade Teacher in the Middle School Section namely, Standards VI to VIII in the 3rd respondent school retired on reaching the age of superannuation on 31.05.2012, as per G.O.Ms.No.79, Secondary Education (U-I) Department, dated 14.06.2002 the post of Secondary Grade Teacher stands automatically upgraded into that of Graduate Teacher with effect from 01.06.2002.

9.Therefore, this Court finds no infirmity in the proposal sent by the 3rd respondent school and finding grave error in the impugned order dated 09.12.2016, this Court sets aside the same. The 1st Respondent is hereby directed to approve the appointment of the petitioner as B.T.Assistant with effect from 01.06.2012 and pass appropriate orders within a period of four weeks from the date of receipt of a



copy of this order along with salary arrears and other benefits"

6.The similar view has been expressed by this Court in **C.Wilson Sundar Raj Vs. The Director of School Education, Chennai 600 006 and others** reported in (2012) 3MLJ 678. The fact that the Government had decided to up-grade all posts of Secondary Grade Teacher for Standards VI to VIII as Graduate Teachers even in the year 2003 is not in dispute. While so, the order of the first respondent rejecting the approval on the ground that the up-gradation of the post has not been approved, cannot stand in the legal scrutiny.

7.In view of the above, the order of the first respondent, dated 19.03.2020 is liable to be set aside. Accordingly, the same is set aside and the Writ Petition stands allowed. There will be a direction to the respondents to approve the appointment of the petitioner with effect from 03.06.2019 as B.T Assistant (English) within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

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 District Educational Officer,
Valliyur,
Tirunelveli District.

2.The Chief Educational Officer,
Palayamkottai,
Tirunelveli District.

+1 CC to M/s.SPL GP (SR-20443[F] dated 28/06/2021)

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KB(06.07.2021) 3P 4C