



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)Nos.11759 & 11760 of 2021

and

W.M.P(MD)Nos.9242 & 9243 of 2021

WEB COPY

P.Heubert Immanuel ... Petitioner in W.P(MD)No.11759/2021

N.Yoburaja ... Petitioner in W.P(MD)No.11760/2021

vs.

1.The Chief Educational Officer,
Virudhunagar District.

2.The District Educational Officer,
Virudhunagar District.

3.The Secretary,
S.H.N.Edward Higher Secondary School,
Sattur,
Virudhunagar District. ... Respondents in both W.Ps'

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writs of Certiorarified Mandamus, to call for the records pertaining to the orders passed by the first respondent in his proceedings in Oo.Mu.No.2042/A4/2020 and Oo.Mu.2043/A4/2020, dated 03.11.2020 and quash the same and consequently direct the respondents to approve the appointment of the petitioners as B.T.Assistant (English) from the date of appointment i.e., from 03.01.2019 with salary and all consequential benefits.

For Petitioners : Mr.V.Panneer Selvam
(In both W.Ps')

For RR 1 & 2 : Mr.K.S.Selva Ganesan
(In both W.Ps') Government Advocate

COMMON ORDER

The petitioners have filed these present Writ Petitions, to quash the order passed by the first respondent, dated 03.11.2020 and to direct the respondents to approve the appointment of the petitioners as B.T.Assistant (English) from the date of appointment i.e., from 03.01.2019, with salary and all consequential benefits.

2.According to the petitioners, they have passed in B.A., (English), B.Ed., and M.A., (English) and were fully qualified for

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



the post of B.T.Assistant (English). The third respondent Management issued Notification calling for applications to fill up the post of B.T.Assistant (English). On seeing the Notification, the petitioners were applied, selected and appointed as B.T.Assistant (English) by order, dated 03.01.2019. The petitioner in W.P(MD) No.11759 of 2021 was appointed in the permanent sanctioned vacancy that arose due to retirement of Thiru.S.Christober Jeyaseelan, Secondary Grade Teacher on 31.05.2018. The petitioner in W.P(MD) No.11760 of 2021 was appointed in the permanent sanctioned vacancy that arose due to promotion of Tmt.V.Arulrani, Secondary Grade Teacher as B.T.Assistant on 02.07.2018. As per Rule 15(4) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, the management has to get prior permission from the first respondent to fill up the post. Therefore, the management sent proposal to the first respondent to fill up the post of B.T.Assistant (English). The third respondent school is non-minority aided school. Therefore, the Rule of Reservation is applicable to the School. As per Rule of Reservation, the post is coming under the B.C.Category. Therefore, the first respondent granted prior permission to fill up the post of B.T.Assistant (English) by upgrading the secondary grade teacher post as B.T.Assistant. At the time of granting prior permission, the authorities verified all the documents and students strength, therefore, there is no impediment to approve the appointment of the petitioners. Since the first respondent has not passed any order, the petitioners have filed writ petitions in W.P (MD)Nos.5440 & 5464 of 2020 to approve their appointment. Pending writ petition, the first respondent by order dated 03.11.2020 rejecting the proposal on the ground that surplus teachers are working in some other school by referring G.O.(Ms)No.165, School Education Department, dated 17.09.2019 and also referring the interim order granted by this Court in W.A(MD)No.76 of 2019, dated 09.04.2019. Challenging the same, the petitioners have come out with the present Writ Petitions.

3.The learned counsel appearing for the petitioners submitted that at the time of passing the impugned order, the respondents referred the interim order, dated 09.04.2019 passed by the Division Bench of this Court in W.A(MD)No.76 of 2019 etc., batch and G.O.(Ms) No.165, School Education (Tho.Ka.2(1)) Department, dated 17.09.2019. Subsequently, in the writ appeal batch, another Division Bench of this Court vide order dated 20.09.2019, suspended the operation of the said Government Orders until further orders. Thereafter, finally, on 31.03.2021, another Division Bench of this Court declared the said Government Order as inoperative.

4.The learned Government Advocate appearing for the respondents 1 and 2 submitted that if the third respondent school resubmitted the proposal, the respondents 1 & 2 will pass orders following the guidelines issued by the Division Bench of this Court, dated 31.03.2021, in W.A(MD)Nos.76 of 2019 etc., batch.



9. With the above directions, these Writ Petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

am

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,
Virudhunagar District.
2. The District Educational Officer,
Virudhunagar District.

+1 CC to M/s.SPL GP (SR-22676[F] dated 15/07/2021)

+2 CC to M/s.V.PANNEER SELVAM, Advocate (SR-22772[F] dated 15/07/2021)

**W.P(MD)Nos.11759 & 11760 of 2021
14.07.2021**

MGJ(26.07.2021) 4P 6C