



WEB COPY

W.P.(MD) No.12579 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.12579 of 2021

and

W.M.P. (MD) No.9834 of 2021

R.Vinser Mencila

... 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-600 006

3.The Chief Educational Officer
Tirunelveli, Tirunelveli District

4.The District Educational Officer
Tirunelveli, Tirunelveli District

5.The Correspondent
Christhu Raja Higher Secondary School
Palayamkottai-627 002
Tirunelveli District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned proceedings issued by the fourth respondent District Educational Officer in O.Mu.No.2411/A5/2021, dated 14.07.2021, quash the same and further direct the respondents 3 and 4 herein to sanction forthwith the annual increments and other allowances towards the salary of petitioner as BT Assistant History in the fifth respondent School for the year 2011-2012 and 2012-2013.

For Petitioner : Ms.Amala.A.

For Respondents : Mr.A.K.Manikkam
Government Counsel for R1 to R4



O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated 14.07.2021, passed by the fourth respondent and to direct the respondents 3 and 4 to sanction forthwith the annual increments and other allowances towards the salary of the petitioner as BT Assistant (History) in the fifth respondent School for the year 2011-2012 and 2012-2013.

2. According to the petitioner, she was appointed as B.T.Assistant (History) on 01.02.2011 in the fifth respondent School, which is a Minority Institution. Though the fourth respondent, vide proceedings dated 31.05.2011, accorded approval to the petitioner's appointment and disbursed the grant-in-aid towards her salary, did not sanction the annual increments, leave salary and other benefits. Therefore, the fifth respondent School, on 16.02.2021, submitted a proposal to the fourth respondent requesting annual increment and other benefits. However, the fourth respondent, by the impugned order dated 14.07.2021, returned the said proposal on the ground that the petitioner has not completed the Teacher Eligibility Test. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that in a similar circumstances, in W.P.(MD) No.16428 of 2018 etc., batch, vide order dated 26.07.2018, this Court allowed the writ petitions and the writ appeals filed as against the said order, have also been dismissed, by Judgment dated 17.11.2019 in W.A.(MD) No.1413 of 2019. Therefore, the learned counsel for the petitioner seeks for setting aside the impugned order passed by the fourth respondent.

4. The learned Government Counsel appearing for the respondents 1 to 4 would submit that as against the Judgment, dated 17.11.2019 in W.A.(MD) No.1413 of 2019, no further appeal has been preferred by the respondents.

5. Heard the learned counsel appearing for the petitioner and the learned Government Counsel appearing for the respondents 1 to 4 and carefully perused the materials available on record.

6. On perusal of the materials available on record, it is seen that this Court, in a similar circumstances, by order dated 26.07.2018 in W.P.(MD) No.16428 of 2018 etc., batch, directed the respondents to award annual increment to the teachers, like the petitioner, who are working in Minority Institutions, without passing Teacher Eligibility Test. Further, both sides admitted that the aforesaid issue is now under reference before the Honourable



Supreme Court in the case of **Aswini vs. Thenappan**. Hence, this Court is of the view that subject to the outcome of the said case, the petitioner's case can be considered.

7. Accordingly, this Court passes the following orders:

- (i) The fifth respondent School shall resubmit the proposal to the fourth respondent seeking sanction of annual increment and other benefits payable to the petitioner, from the date of her appointment i.e.01.02.2011, within a period of two weeks from the date of receipt of a copy of this order;
- (ii) On receiving such resubmission of proposal by the fifth respondent School, the fourth respondent, without insisting upon the pass in Teacher Eligibility Test, shall consider the same on merits and in accordance with law and pass orders on merits and in accordance with law, if the petitioner is otherwise found to be eligible, within a period of twelve weeks thereafter.

8. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Secretary,
Department of School Education,
State of Tamil Nadu,
Fort St.George, Chennai-600 009.

2.The Director of School Education,
College Road, Chennai-600 006.

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

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

5.The Correspondent,
Christhu Raja Higher Secondary School,
Palayamkottai-627002,
Tirunelveli District.

+1 CC to M/s.A.AMALA, Advocate (SR-32420[F] dated 25/10/2021)

+1 CC to M/s.SPL.GP (SR-32245[F] dated 22/10/2021)

**W.P. (MD) No.12579 of 2021
and**

**W.M.P. (MD) No.9834 of 2021
21.10.2021**

MGJ/JGB(02.11.2021) 4P 8C