



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.13375 of 2021

and

W.M.P (MD) No.10340 of 2021

WEB COPY

R.Princess

... Petitioner

Vs.

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

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

3.The Correspondent,
Mary Sargent Higher Secondary School for Girls,
Palayamkottai,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for records relating to impugned order in Na.Ka.No.3129/A3/2019, dated 17.07.2019 of the 2nd respondent herein and quash the same and consequently direct the respondents 1 and 2 herein to award annual increments, incentive, surrender leave benefits and other attended benefits to the petitioner from the date of petitioner's appointment namely 15.11.2011 with all attendant benefits including pay fixation and allowance.

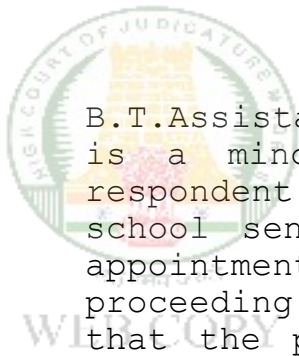
For Petitioner : Mr. T.Pon Ramkumar

For Respondents : Mr. A.K.Manickam
Standing Counsel for
State Government R1 & R2
: Mr.G.Prabhu Rajadurai for R3

O R D E R

This Writ Petition has been filed challenging the impugned order passed by the second respondent and for a consequential direction to the respondents 1 and 2 to award annual increments, incentive, surrender leave benefits and other attended benefits to the petitioner from the date of petitioner's appointment namely 15.11.2011 with all attendant benefits including pay fixation and allowance.

2. According to the petitioner, he was appointed as



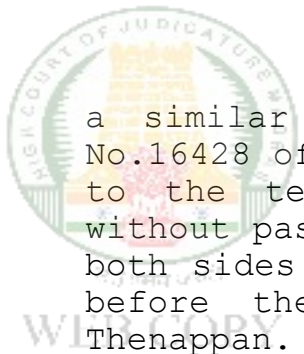
B.T.Assistant, on 15.11.2011 in the third respondent school, which is a minority institution, in a sanctioned post. The third respondent school is a minority institution. The third respondent school sent a proposal to the second respondent for approval of appointment of the petitioner. The second respondent, vide proceeding dated 31.07.2013, returned the proposal on the ground that the petitioner has not passed the Teacher Eligibility Test. Aggrieved against the said order, the petitioner has filed a Writ Petition in W.P.(MD)No.1286 of 2017 before this Court. This Court, by order dated 23.02.2017, following the decision of the Hon'ble Supreme Court in W.A.(MD)No. 213 of 2016, allowed the Writ Petition and directed the second respondent herein to approve the appointment of the petitioner and release the salary grant from the date of appointment and to pay the arrears of salary. Pursuant to the said order, the second respondent vide proceedings dated 07.03.2017, approved the appointment of the petitioner and released salary from the date of her appointment. However, the respondents have not awarded annual increments. Hence, the petitioner filed a writ petition in W.P.(MD)No.4857 of 2019 before this Court, seeking to award annual increments from the date of her appointment. This Court, by order dated 22.03.2019, disposed of the said Writ Petition, by directing the respondents to consider the petitioner's representation and pass appropriate orders. However, to her shock and surprise, the second respondent, by the impugned proceeding dated 17.07.2019, refused to give annual increment on the ground that the petitioner has not passed the Teacher Eligibility Test. Hence, the petitioner has come out with the present Writ Petition, for the relief stated supra.

3. The learned counsel appearing for the petitioner submitted that in a similar circumstances, a batch of Writ Petitions in W.P. (MD)No.16428 of 2018 was filed before this Court, seeking annual increments to the teachers who are working in the minorities school without Teacher Eligibility Test. By order dated 26.07.2018, this Court allowed the said Writ Petition. As against the said order, the respondents herein filed Writ Appeal in W.A.(MD)No.1413 of 2019 and batch before this Court. This Court by order dated 17.11.2019, dismissed the said Writ Appeals. Hence, following the said judgment, the case of the petitioner is to be considered.

4. The learned Standing Counsel for the State appearing for the respondents would submit that as against the judgment 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, the learned Standing Counsel for the State appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent and perused the materials available on record.

<https://hcservices.courts.gov.in/hcservices> - A perusal of the records, it is seen that, this Court in



a similar circumstances, by order dated 26.07.2018 in W.P.(MD) No.16428 of 2018, directed the respondents to award annual increment to the teachers, who are working in the minority institution, without passing Teacher Eligibility Test, like petitioner. Further, both sides admitted that the aforesaid issue is now under reference before the Hon'ble Supreme Court in the case of Aswini Vs. Thenappan. Therefore, subject to the out come of the said case, the petitioner cannot deny the relief as sought for by the petitioner. Hence, this Court has no hesitation to quash the impugned order passed by the second respondent.

7. Accordingly, the impugned order passed by the second respondent dated 17.07.2019 is quashed and this Writ Petition is allowed. The respondents are directed to award annual increments, incentive, surrender leave benefits and other attended benefits to the petitioner including pay fixation and allowance from the date of his appointment viz., 15.11.2011 without insisting to pass in Teacher Eligibility Test. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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,
Tirunelveli,Tirunelveli District.

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

3.The Correspondent,
Mary Sargent Higher Secondary School for Girls,
Palayamkottai, Tirunelveli District.

+1 CC to M/s.T.PON RAMKUMAR, Advocate(SR-25327[F] dated 05/08/2021)
+1 CC to M/s.GP (SR-25501[F] dated 06/08/2021)

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RD(12.08.2021) 3P 5C

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