



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.15896 of 2020
(Through Video Conference)

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R.Mercy Anjela

... Petitioner

Vs

1. The Director of School Education,
College Road, D.P.I Complex,
Nungampakkam, Chennai.

2. The District Educational Officer,
The Office of the District Educational Officer,
Thirupathur, Sivagangai District.

3. The Block Educational Officer,
Thirupathur,
Sivagangai District.

4. The Correspondent,
R.C.Fathima Middle School,
Thirupathur, Sivagangai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order made in Na.Ka.No.5168/A5/2019 dated 17.03.2020 on the file of the 2nd respondent and to quash the same as illegal and arbitrary and consequently direct the respondents 1 to 3 herein to confer the petitioner with Seven annual increments for her service period from 2013 to 2020 as B.T.Assistant (Tamil) in the fourth respondent School with entire arrears along with interest at the rate of 12% per annum and further direct the respondents to continue to pay the future increments from 2021 without any default.

For Petitioner : Mr.M.Thirunavukkarasu

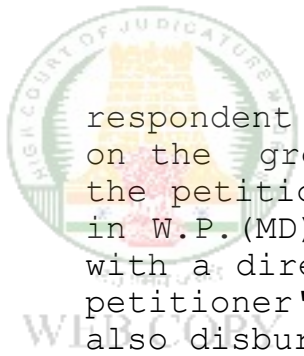
For RR 1 to 3 : Mr.A.Thiyagarajan,
Government Advocate

For R-4 : Mr.S.Kumar

O R D E R

The petitioner was originally appointed as B.T.Assistant in the fourth respondent School and the proposal sent by the second

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



respondent to approve her appointment as B.T.Assistant was rejected on the ground that she had not acquired T.E.T. qualification. When the petitioner had challenged the rejection order before this Court in W.P.(MD) No.20429 of 2015, the writ petition came to be allowed with a direction to pay the arrears of the salary. Accordingly, the petitioner's appointment was approved and the salary arrears were also disbursed.

2. The grievance of the petitioner is that her yearly increments from the date of her approval (i.e.) from the year 2013 was not granted and her representations in this regard were also not considered. When the petitioner had approached this Court through a writ petition filed in W.P.(MD) No.12191 of 2019, this Court had directed the second respondent to consider her request for grant of yearly increments, through its order dated 07.08.2019, pursuant to which, the second respondent had intimated the fourth respondent that the claim cannot be considered on the ground of non-production of certain documents by the School Administration and raised queries with regard to the petitioner's appointment, vacancies, etc.

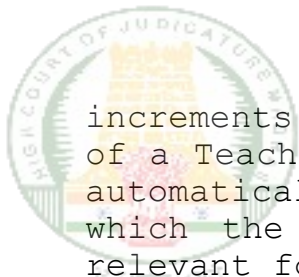
3. It is the submission of the learned counsel for the petitioner that the moment, the petitioner's appointment is approved, she would automatically be entitled for the yearly increments. In support of such a contention, the learned counsel relied upon the decision of the learned Single Judge of this Court in **C.Jeevarani and another vs. the District Elementary Educational Officer and others** passed in W.P.(MD)Nos.5211 and 5212 of 2018.

4. Per contra, the learned Government Advocate appearing for the respondents submitted that the second respondent had only sought for certain queries with regard to the petitioner's request for grant of yearly increments and that the fourth respondent herein, is required to answer the queries and submit the application for grant of yearly increments.

5. To such a submission, the learned counsel for the fourth respondent submitted that, pursuant to the proceedings of the second respondent, dated 10.09.2019, all the documents sought for, were also submitted on 23.11.2019.

6. I have given careful consideration to the submissions made by the respective counsels.

7. It is a settled proposition that the second respondent cannot expect the petitioner to have acquired the T.E.T. qualification for the purpose of approval. As such, the very first impediment the petitioner faced, was on a baseless objection. However, pursuant to the orders of this Court, the petitioner's approval was granted. The second impediment, the petitioner now faces is, the non-consideration of her request for the yearly



increments. It is needless to point out that, once the appointment of a Teacher in a minority school is approved, such a Teacher would automatically be entitled for the annual increments. The queries which the second respondent has now raised does not seem to be relevant for the purpose of considering the request for the grant of annual increments. Nevertheless, the fourth respondent School also has answered the queries and submitted the required documents sought for by the second respondent in his proceedings dated 07.03.2020.

8. The aforesaid proposition that the petitioner would be entitled to her yearly increments commencing from the year 2013 onwards is fortified by the decision cited by the learned counsel for the petitioner in the case of **C.Jeevarani** (citedsupra) and the relevant portion of the order reads thus:-

"19. In both cases, it is the stand of the learned Counsel appearing for the petitioners that after rectification of the minor mistakes/infirmities pointed out by the official respondents, proposals in both cases were re-submitted by the respective third respondent School. However, this factor cannot be verified, as no one is appearing on behalf of the third respondent School in both cases. At any rate, if at all the proposal had already been forwarded by the third respondent, after rectification, it shall be considered by the official respondents without insisting upon the TET qualification. If such proposals are yet to be re-submitted by the third respondent School in both cases, the third respondent School shall immediately forward the same to the official respondents for consideration and approval.

20. Once such an exercise is completed, depending upon the outcome of the approval proposals, the decision with regard to the salary as well as other pay benefits payable to the petitioners can easily be decided and in fact, they would also be entitled to, in such case if the proposals are approved in both cases.

21. In view of the above said facts and circumstances, this Court is of the view that in both the writ petitions though the prayer is to consider the request of the petitioners for grant of increment to their salary, the same can be moulded or modified with a suitable direction which would give a quietus to the entire issue pertaining to the appointment and approval of the petitioners in the respective third respondent School and their other service benefits.



22. In the result, both the writ petitions are disposed of with the following directions:

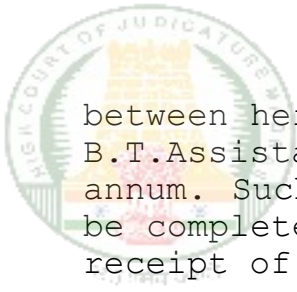
(1) the third respondent in both writ petitions, if not already forwarded/re-submitted, the appointment proposal of the respective petitioners after rectifying the infirmities/mistakes, if any, pointed out by the official respondents, the same shall be immediately forwarded with the relevant documents/records to the official respondents within a period of two weeks from the date of receipt of a copy of this order;

(2) if the proposals have already been forwarded by the third respondent School or if the proposals are forwarded only pursuant to the aforesaid direction by the third respondent School, the official respondents, especially, the first respondent (presently re-designated as District Educational Officer, Tirunelveli) shall consider both the proposals without insisting upon the requirement of TET qualification from the petitioners and pass orders thereon, on merits and in accordance with law, with regard to the grant of approval to the petitioners within a period of six weeks from the date of receipt of a copy of this order if the proposals were already forwarded or within a period of six weeks from the date of receipt of such proposals if they are forwarded pursuant to the direction of this Court;

(3) it is made clear that once the appointment proposals of the respective petitioners are approved, the respective petitioners are entitled to get all service benefits including salary, increment, leave salary and other benefits as applicable to other approved teachers of that category and such benefits, by way of arrears, shall be calculated and paid to the petitioners within a period of six weeks thereafter;"

9. In the light of the above observations, this Court is of the considered view that a positive direction requires to be given, so as to enable the petitioner to receive her annual increments between the years 2013-2020.

10. For the foregoing reasons, the second respondent herein shall consider the reply of the fourth respondent School dated 17.03.2020 pursuant to the queries raised in the second respondent's proceedings dated 10.09.2019 and consequently grant the annual increments to the petitioner, for her seven annual increments



between her service period from the year 2013 to 2020 in the post of B.T.Assistant(Tamil) together with an interest at the rate of 6% per annum. Such an exercise of disbursement of annual increments shall be completed atleast within a period of eight weeks from the date of receipt of a copy of this order.

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11. The petition stands allowed accordingly. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

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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 Director of School Education,
College Road, D.P.I Complex,
Nungampakkam, Chennai.
2. The District Educational Officer,
The Office of the District Educational Officer,
Thirupathur, Sivagangai District.
3. The Block Educational Officer,
Thirupathur,
Sivagangai District.

+1 CC to Mr.M.THIRUNAVUKKARASU, Advocate (SR-6048[F] dated 19/02/2021)

+1 CC to SPL GP (SR-6427[F] dated 22/02/2021)

Order made in
W.P. (MD)No.15896 of 2020
18.02.2021

VB (09.03.2021) 5P 6C