



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.16307 of 2020

P.Selin Pappa

... Petitioner

Vs.

1.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

2.The District Educational Officer,
Nagercoil, Kanyakumari District.

3.The Correspondent of Salvation Army Schools/
Territorial Commander,
Territorial Headquarters,
Post Box No.605-3F,
Near High Ground Main Road,
Maharaja Nagar,
Tirunelveli.

4.The Manager/Correspondent,
The Salvation Army Higher Secondary School,
Vetturanimadam, Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the second respondent vide his proceedings in Na.Ka.No.2555/A2/2020, dated 08.07.2020 and quash the same as illegal and consequently direct the respondents 1 & 2 to approve the petitioner's appointment in the fourth respondent School in the post of P.G.Assistant (Chemistry) with effect from 25.10.2016 with all attendant and monetary benefits within a time stipulated by this Court.

For Petitioner : Mr.J.Lawrance

For R1 & R2 : Mr.P.Subbaraj
Government Advocate

For R3 & R4 : Mr.A.Swaminathan

ORDER

This writ petition is filed by the petitioner to quash the impugned order, dated 08.07.2020, passed by the second respondent in Na.Ka.No.2555/A2/2020 and consequently direct the respondents 1 & 2 to approve the petitioner's appointment in the fourth respondent School in the post of P.G.Assistant (Chemistry) with effect from 25.10.2016 with all attendant and monetary benefits within a time stipulated by this Court.



2. Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents 1 & 2 and the learned Standing counsel appearing for the respondents 3 & 4 and perused the materials available on record.

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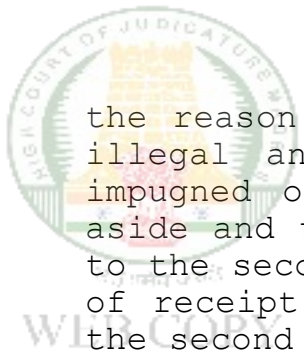
3. According to the petitioner, the fourth respondent School is a Private Aided Minority School under the management of the third respondent. One Suguna working as P.G.Assistant (Chemistry) was promoted as Headmistress. In the said vacancy, that arose in the sanctioned post, on 25.10.2016 the petitioner was appointed as P.G.Assistant (Chemistry). On 14.12.2017, the fourth respondent sent a proposal to the second respondent for approval of appointment of the petitioner. While the said proposal was pending, one Michael Rajan filed a writ petition in W.P(MD)No.17346 of 2018 for a direction to the first respondent herein to consider his representation, dated 27.10.2019 to approve his appointment as P.G.Assistant (Chemistry). During the pendency of the said writ petition, the second respondent returned the proposal sent by the fourth respondent for approval of appointment of petitioner. On 28.03.2019, this Court closed the writ petition filed by the said Michael Rajan and gave liberty to the said Michael Rajan to challenge the appointment of the writ petitioner. On disposal of the said writ petition, the fourth respondent re-submitted the proposal. Again, the second respondent returned the proposal on 09.09.2019 citing the same reason of pendency of writ petition, even though, the said writ petition was closed by the order of this Court, dated 28.03.2019.

4. According to the petitioner, as per the repeated request of the petitioner, the fourth respondent resubmitted the proposal to the second respondent on 22.06.2020. The second respondent by the impugned order, dated 08.07.2020 returned the proposal stating that this Court gave liberty to said Michael Rajan to challenge the order of appointment of the petitioner.

5. From the materials available on record, it is seen that the second respondent by the impugned order, dated 08.07.2020, returned the proposal sent by the fourth respondent for approval of appointment of the petitioner on the ground that this Court has already granted liberty to Michael Rajan to challenge the appointment of the petitioner. The order of this Court made in W.P (MD)No.17346 of 2019 is dated 28.03.2019 and the impugned order is dated 08.07.2020, however, till date, there is no material to show that the said Michael Rajan challenged the order of appointment of the petitioner. It is the case of the petitioner that the said Michael Rajan got appointment in some other private School and he is not challenged the order of appointment of the petitioner. It is not the case of the respondents 1 & 2 that they have received notice from this Court or any communication from the said Michael Rajan

<https://hcs.cslcourts.gov.in/hcs/csl/csl>

appointment of the petitioner. In view of the same,



the reason given by the second respondent in the impugned order is illegal and arbitrary and it is liable to be set aside. The impugned order of the second respondent, dated 08.07.2020 is set aside and the fourth respondent is directed to resubmit the proposal to the second respondent, within a period of two weeks from the date of receipt of a copy of this Court. On receipt of such proposal, the second respondent is directed to pass orders on the proposal for approval of appointment of the petitioner, if she is otherwise eligible and release all monetary benefits to her from the date of her appointment and continue to pay her salary every month.

6. With the above direction, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar (AS)

// 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 Chief Educational Officer,
Nagercoil, Kanyakumari District.

2.The District Educational Officer,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.N.MOHAMED ASIF, Advocate (SR-20963[F] dated 02/07/2021)

+1 CC to M/s.J.LAWRANCE, Advocate (SR-20955[F] dated 02/07/2021)

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