



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A(MD)No.2136 of 2021

and

C.M.P(MD)No.9991 of 2021

WEB COPY

1.The Secretary to Government,
Department of School Education,
St. George Fort,
Chennai.

2.The Director of School Education,
DPI Compound,
College Road,
Chennai.

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

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

... Appellants / Respondents 1 to 4
Vs.

1.S.Anurebecca

... 1st Respondent/Writ Petitioner

2.The Secretary,
Rukmani High School,
Mangalapuram,
Tirunelveli District.

... 2nd Respondent/5th Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order made in W.P(MD)No.13361 of 2018 dated 23.07.2021.

Prayer in WP(MD). 13361/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 4th Respondent in 858/A3/2018, dated 02.05.2018 and quash the same and consequently direct the 4th respondent to approve the appointment of the petitioner with all other consequential service and monitory benefits with effect from 15.06.2011 within the stipulated time.



For Appellants

: Mr.M.Siddharthan,
Additional Government Pleader

For R-1

: Mr.S.Chellapandian

WEB COPY

JUDGMENT

PUSHPA SATHYANARAYANA, J.

The writ appeal is filed by the Government against the order dated 23.07.2021 passed in W.P(MD)No.13361 of 2018.

2. The first respondent/writ petitioner is one Anurebecca a physically challenged woman with hearing and speech impaired with 90% disability. As earlier incumbent had attained superannuation, a vacancy arose for the Post of Sewing Teacher. The second respondent school is a recognised non-minority aided school receiving grant-in-aid from the Government. The writ petitioner was appointed on 15.06.2011 after following the procedure. The second respondent school has also submitted a proposal to the fourth appellant for approval of the appointment. The said proposal was returned asking the second respondent school to produce the G.O., which enabled them to appoint a physically challenged person. Accordingly, the school had also re-submitted the proposal in the year 2014. In spite of the proposal being submitted in the year 2014, there was no response from the authorities and several requests have been made by the school. Finally, the authorities received the proposal only on 05.03.2018 and on 02.05.2018, the proposal was once again rejected on the ground that the Post is surplus and there was a delay in resubmitting the proposal. Challenging the said rejection order dated 02.05.2018, the writ petitioner had filed the writ petition. The writ petition was allowed in part. Challenging the said order, the present writ present writ appeal has been filed.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. G.O.Ms.No.619 Education (M2) Department dated 23.06.1993 provides for appointment of a physically challenged person as a Sewing Teacher and the first respondent/writ petitioner is eligible for the said post. To be noted is that the said post of Sewing Teacher is a sanctioned post and it will not lapse on the retirement or promotion of an incumbent. Even if the students strength had fallen short of the prescribed number, when there is a sanctioned post, the same cannot be taken away. The Sewing Teacher or Craft Teacher are said to be sanctioned post only for the purpose of



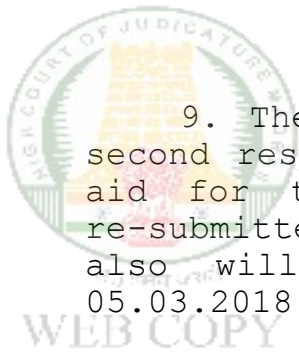
developing the vocational skills of the students, particularly the girl students. The job of the Sewing Teacher is to impart training with respect to tailoring as it better suits the school students to enhance the employment capabilities in the later part of their life.

5. The yet another point raised by the learned Additional Government Pleader appearing for the appellants, is that there was a delay in resubmitting the proposal after five years. The said reason cannot be accepted as the writ petitioner was appointed as a Sewing Teacher in the vacancy meant for physically challenged person. Immediately, a proposal was sent by the school and the same was returned on 01.03.2013 directing the school authorities to produce relevant G.O., for appointing a physically challenged person like the writ petitioner. Though the Government had alleged that there are surplus Teachers in the school, the same is not proved as there are no surplus Teachers in the school and the post of Sewing Teacher is a sanctioned post. As stated earlier, merely because the incumbent retired from service, the post became vacant. There is only one sanctioned post of a Sewing Teacher in the school. Therefore, the same cannot be said to be a surplus. As stated supra, the post of Sewing Teacher is necessary for the benefit of girl students, who learn tailoring and other embroidery work etc., which can be taken up as an avocation in the later years.

6. In such circumstances, merely mentioning the Sewing Teacher as a surplus one and quoting the delay in sending the proposal, the appellants cannot refuse to approve the appointment of the respondents. Though the learned Single Judge has mentioned that there is no evidence produced by the School Authorities for resubmitting the proposal in the year 2014 itself, the delay has been condoned by the learned Single Judge, which we do not propose to interfere.

7. The two reasons for rejecting the approval namely the post is a surplus one and the proposal was sent belatedly, are unacceptable and liable to be set aside. Even before the learned Single Judge, the writ petitioner had submitted that she will not claim the monetary benefits from the date of appointment till re-submission of the proposal dated 05.03.2018. Even before us also, the same submission was made and the same is recorded.

8. In view of the above, we do not find any reason to interfere with the order of the learned Single Judge and the same is confirmed and the writ appeal is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.



9. The appellant is directed to approve the proposal and the second respondent school will be entitled to receive the grant-in-aid for the post only from 05.03.2018 when the proposal was re-submitted. As corollary, the first respondent/writ petitioner also will be entitled for the monetary benefits only from 05.03.2018.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

pm

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.

Copy to:

- 1.The Secretary to Government,
Department of School Education,
St. George Fort, Chennai.
- 2.The Director of School Education,
DPI Compound,
College Road, Chennai.
- 3.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 4.The District Educational Officer,
Tenkasi,
Tirunelveli District.

+1 CC to M/s.S.CHELLAPANDIAN, Advocate (SR-40323[F]
dated 23/12/2021)

+1 CC to M/s.SPL GP (SR-40211[F] dated 23/12/2021)

JUDGMENT MADE IN

W.A (MD)No.2136 of 2021

22.12.2021

ARK (CO)

GC (04.01.2022) 4P 7C

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