



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD)No.6178 of 2016

and

W.M.P. (MD) .No.5452 of 2016

K.N.Eswari

.. Petitioner

Vs.

1.The State of Tamil Nadu Represented by its,
Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai.

2.The District Educational Officer,
Office of the District Educational Officer,
Madurai.

3.The Headmaster,
A-1929, Thirunagar Co-operative Housing Society(N-T),
Savitha Bai(Kovai) Higher Secondary School,
Thirunagar,
Madurai.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay the salary every month to the petitioner from the date of her appointment namely 14.09.2012 by considering the order dated 11.07.2013 in W.P.No.11062 of 2013.

For Petitioner : Mr.S.Malaikani

For Respondent Nos.1 & 2 : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader

For Respondent No.3 : No appearance

O R D E R

This writ petition has been filed for the issue of a writ of mandamus, directing the respondents to pay the salary every month to the petitioner from the date of her appointment namely 14.09.2012 by considering the order dated 11.07.2013 in W.P.No.11062 of 2013.

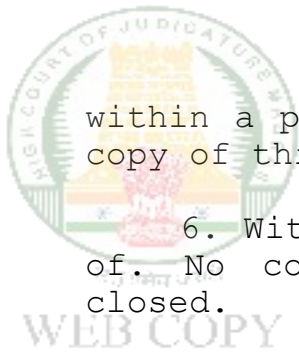


2. The case of the petitioner is that the petitioner was appointed as B.T. Assistant (Science) in the third respondent School in the year 2012. Thereafter, the said appointment order was sent to the second respondent for approval. The second respondent rejected the approval of the petitioner's appointment on 21.03.2013 on the ground that she had not acquired the minimum educational qualification i.e., pass in Teacher's Eligibility Test (TET). Further case of the petitioner is that the petitioner was appointed in a private aided school and as per G.O.Ms.No.173 dated 08.11.2011 as well as per part IV Rule 16(2) of the Tamil Nadu Right to Children to Free and Compulsory Education Rules, 2011, the petitioner's appointment will be approved subject to the condition that she shall acquire the minimum qualification of pass in TET within five years from the date of appointment. Considering the said Government Order, the School Committee has appointed the petitioner in the aided school. In the meanwhile, she was prepared for TET to acquire the said qualification, however, without considering the above said GO, the second respondent rejected the petitioner's appointment on 21.03.2013. Challenging the same, the petitioner filed a writ petition before this Court in W.P.No.11062 of 2013. This Court, by order dated 11.07.2013 has directed the respondent/authorities to give temporary approval to the teachers appointed like the petitioner. Even thereafter, no action was taken on the part of the District Education Officer to grant temporary approval of the petitioner's appointment and for payment of monthly salary. Thereafter, again the petitioner made a representation for payment of salary on 23.03.2016 to the respondents, but so far no action has been taken. Hence this writ petition.

3. The learned counsel for the petitioner would submit that though the petitioner is entitled for temporary approval as per G.O.Ms.No.173 dated 08.11.2011, the petitioner has rendered 3½ years of service without any salary, however, the respondents has not taken any steps to grant temporary approval of the petitioner's appointment. He would further submit that it would suffice, if this Court issues a direction to the respondents to consider the representation of the petitioner dated 23.03.2016 and to pay the salary to the petitioner within a reasonable time.

4. The learned Additional Government Pleader appearing for the respondents 1 & 2 has no serious objection to consider the limited request made by the learned counsel for the petitioner.

5. Considering the limited scope of prayer sought for in this writ petition and also considering the pendency of the case from 2016, without going into the merits of the case, this Court is inclined to issue a direction to the respondents to consider the petitioner's request. Accordingly, the respondents 1 & 2 are directed to consider the petitioner's representation dated 23.03.2016 and to pass appropriate orders in accordance with law,



within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition stand disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T & P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 to Government,
The State of Tamil Nadu,
School Education Department,
Secretariat, Fort St.George,
Chennai.

2.The District Educational Officer,
Office of the District Educational Officer,
Madurai.

+1 CC to M/s.S.MALAIKANI, Advocate (SR-8583[F] dated
04/03/2021)

+1 CC to M/s.SPL GP (SR-8737[F] dated 04/03/2021)

**W.P. (MD) .No.6178 of 2016
03.03.2021**

MA(07.05.2021) 3P 5C