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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.1251 OF 2020

WMP.NOS.1511 & 1512 OF 2020

J. Prema Anitha

...Petitioner

Vs.

1.The Director of Elementary Education,
College Road, Chennai 6.

2.The District Educational Officer,
Vridhachalam, Cuddalore District.

3.The Block Educational Officer,
Nallur,
Cuddalore District.

4.The Correspondent,
Danish Mission Elementary School,
Pe-Ponneri, Pennadam,
Cuddalore District.

...Respondents

Prayer :- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 2nd Respondent made in his proceedings in Na.Ka.No. 8448/ Aa2/ 2019 dated 08.12.2019 and quash the same and direct the Respondents 1 to 3 to approve the appointment of the petitioner in the 4th Respondent School from the date of her appointment and consequently direct the Respondents to pay the salary to the petitioner with arrears of salary.

For Petitioner : M/s.R.D.Ashok Kumar

For Respondents : Mr.T.Chezhiyan, AGP - R1 to R3

O R D E R

The prayer in the writ petition is to call for the records relating to the order of the 2nd Respondent made in his proceedings in Na.Ka.No. 8448/ Aa2/ 2019 dated 08.12.2019 and quash the same and direct the Respondents 1 to 3 to approve the appointment of the petitioner in the 4th Respondent School from



the date of her appointment and consequently direct the Respondents to pay the salary to the petitioner with arrears of salary.

2. Heard both sides and perused the materials available on record.

3. According to the learned counsel appearing for the petitioner, the writ petitioner was appointed as Secondary Grade Teacher in the fourth respondent School on 18.01.2019. The fourth respondent submitted a proposal to the second respondent on 21.01.2019 for approval of the appointment made by the fourth respondent School. The petitioner has made representation to the 2nd respondent for approval of her appointment and also for the payment of salary. Since no action was taken by the respondents, the petitioner has filed a writ petition in W.P.No. 28275 of 2018 before this Court. By order dated 14.08.2019, this Court directed the 2nd respondent to consider the representation dated 14.08.2019 submitted by the petitioner and dispose of the same within 12 weeks. The 2nd respondent passed the impugned order dated 08.12.2019, rejected the proposal for the approval of the appointment of the petitioner on the ground of surplus teachers.

4. The learned Additional Government Pleader on instructions would submit that the said proposal was forwarded to the 4th respondent/Management prior to G.O.Ms.No.165 dated 17.9.2019, therefore the petitioner is not entitled to the benefits as claimed by her.

5. The relief sought for in the instant writ petition is squarely covered by the judgment of this Court dated 18.4.2022 in W.P.No.3194 of 2020, etc. Batch case [B.Kurinjimalaron vs. The State of Tamil Nadu rep. by its Secretary, Education Department, Fort St. George, Chennai-9] wherein this Court held as follows:

'9. On perusal of the judgment of the Division Bench of this Court in the aforesaid Batch of cases and also the G.O.Ms.No.165 issued by the School Education Department, dated 17.9.2019, both the judgment as well as G.O.Ms.No.165 are prospective in nature. The appointments made by the School Management in the instant writ petitions are prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and proposals for the said appointments were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019. Therefore, there is no legal



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impediments for the respondents to accord approval to the appointment made by the School Management in the instant writ petitions.

10. Having regard to the rival submissions of the parties, taking note of the judgment passed by the Division Bench of this Court in a Batch of Writ Appeals in W.A.(MD) No.76 of 2019, etc., G.O.Ms.No.165 issued by the School Education department, dated 17.9.2019 will not prohibit the educational authorities to approve the appointments made by the School Management in the instant writ petitions since the proposals for approval of appointments made by the School Management were forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019. Therefore, this Court is of the view that the respondent department without considering the G.O.Ms.No.165 dated 17.9.2019 in proper perspective and passed the impugned order rejecting the proposals submitted by the School Management. Therefore, the impugned orders passed by the respondent department are liable to be quashed.

11. Accordingly, the impugned orders passed by the respondent department in the aforesaid writ petitions are quashed and remitted to the Chief Educational Officers/District Educational Officers concerned, to consider and pass an order of approval of the appointments made by the School management, provided the said proposals satisfies all the norms prescribed for such appointments and as per the Rules, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of the order. It is made clear that those who are appointed to the post of Secondary Grade Teacher/B.T. Assistant/Middle Grade Assistant prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and also, the proposals for approval of such appointments were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 alone are entitled to the relief granted herein above."



7. In the light of the judgment cited supra, the respondent cannot reject the claim made by the petitioner citing G.O.Ms.No.165 dated 17.9.2019. Accordingly, the impugned order passed by the second respondent is quashed and remitted to the second respondent to consider and pass an order of approval of the appointment made by the fourth respondent School, provided the said proposal satisfies all the norms prescribed for such appointment and as per the Rules and she is otherwise eligible, as expeditiously as possible preferably within a period of twelve (12) weeks from the date of receipt of copy of the order.

8. With the above directions, the writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

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To

1.The Director of Elementary Education,
College Road, Chennai 6.

2.The District Educational Officer,
Vridhachalam, Cuddalore District.

3.The Block Educational Officer,
Nallur, Cuddalore District.

+1cc to Mr.S.N.Ravichandran, Advocate Sr.No.36507

+1cc to the Government Pleader Sr.No.37179

W.P.No.1251 of 2020
and
WMP.Nos.1511 & 1512 of 2020

EV(CO)
RVM(29/06/2022)