



W.P. No.9025 of 2018 and W.M.P. No.10878 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2022

CORAM
THE HON'BLE MR.JUSTICE **M.S.RAMESH**

W.P. No.9025 of 2018 and W.M.P. No.10878 of 2018

S.Vasuki

.. Petitioner

Vs

- 1.The Director of School Education,
Chennai – 600 006.
- 2.The Joint Director of School Education (Secondary),
Chennai – 600 006.
- 3.The Chief Educational Officer,
Chennai – 600 015.
- 4.The District Educational Officer,
South Chennai,
Chennai – 600 008.
- 5.The Secretary,
Guntur Subbiah Pillai T.Nagar,
Girls Higher Secondary School,
35, Venkatanarayana Road,
T.Nagar, Chennai-600 017.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the second respondent in his Proceedings Moo.Mu.No.118976/D1(1)/2006 dated 08.01.2001 (wrongly typed as 08.01.2001 instead of 08.01.2007 whereas the second respondent signed on 10.01.2007 only), the order passed by



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the fourth respondent in his Proceedings Na.Ka.No.3351/A2/2015 dated 05.11.2015 and the order passed by the third respondent in his Proceedings O.Mu.No.1839/A4/A/2018 dated 28.03.2018 and quash the same and direct the respondents to approve the appointment of the petitioner from the date of appointment viz. 16.08.1996 and confer her all the consequential benefits.

For Petitioner : Mr.V.Sivalingam for
M/s.C.S.Associates

For Respondents : Mr.T.Chezhiyan,
Additional Government Pleader
for R1 to R4

Mr.B.Balavijayan for R5

ORDER

This writ petition has been filed, challenging the Proceedings Moo.Mu.No.118976/D1(1)/2006, Na.Ka.No.3351/A2/2015 and O.Mu.No.1839/A4/A/2018 dated 08.01.2001, 05.11.2015 and 28.03.2018 issued by respondents 2, 4 and 3 respectively and seeking a direction to the respondents to approve the appointment of the petitioner from the date of appointment viz. 14.08.1996 and confer her all the consequential benefits.

2.The fifth respondent School is a Non-Minority Aided



Educational Institution. When four teachers therein were due to retire on 31.05.1996, the School had made an Application to the third respondent herein seeking for permission to fill up the sanctioned vacancies, which were due to arise on the retirement of the erstwhile four teachers. However, the application was not acted upon in time and the fifth respondent School had appointed the petitioner herein, along with other teachers, to the vacancy that arose owing to the retirement of a teacher in the sanctioned post. On 22.05.1997, the School had sought for ratification of the appointment made, by referring to the earlier application made on 31.01.1996 seeking for permission to fill up the posts. Ultimately, on 04.07.1997, the third respondent herein had granted permission for filling up the vacant sanctioned posts. Subsequently, the fourth respondent herein approved the appointment of the petitioner herein with effect from 04.07.1997 when the third respondent had granted permission for filling up the vacant posts. When the petitioner herein had sought for approval of appointment from the date of her appointment i.e. from 14.08.1996, the same came to be rejected by the fourth respondent through the impugned proceedings dated 28.03.2018 by placing reliance on Rule 15(4)(ii)(c) of the Tamil Nadu Recognised Private School Regulation Act and stated that since prior permission was not



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granted for filling up the posts, the petitioner would be entitled for approval of the appointment, only from the date of approval of the application dated 04.07.1997. Challenging the same, the present writ petition has been filed.

3.Learned counsel for the petitioner had produced a copy of an order passed by this Court in the case of P.Hemavathy vs. the Director of School Education and others in W.P. No.21005 of 2007 dated 21.11.2017, wherein one of the teachers from the fifth respondent School herein, who was granted approval of her appointment from the date on which the third respondent herein had granted permission, had filed a writ petition. This Court had directed the Educational authorities to approve the appointment from the date of her original appointment. The relevant portion of the order reads as follows:

'9. This Court has considered the submission of the learned counsels, pursued the materials and pleadings placed on record. This Court finds some force in the contention put forth by the learned counsel appearing for the petitioner that the school authority had selected and appointed the petitioner on 19.08.1996 only in the larger interest of the students and also in anticipation of the permission to be granted by the authority concerned from



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the date of the original appointment. As rightly anticipated, the permission was granted on 04.07.1997. In the said circumstances, the approval of the appointment from the date of the permission appears to be not well founded and cannot be sustained in law. As rightly contended by the learned counsel appearing for the petitioner, once the appointment is ratified as being a valid appointment, the ratification must relate back to the date of the original appointment ie., 19.08.1996.

10. In the above circumstances, this Court has no hesitation in allowing this writ petition. The impugned order rejecting the claim of the petitioner on the stated reasons is not sustainable and therefore the same is set aside. There shall be a subsequent direction to the officials/respondents to approve the appointment of the petitioner w.e.f. 19.08.1996 and confer all the consequential benefits. The said direction shall be complied with by the official respondents/competent authority within a period of three months from the date of receipt of a copy of this Order.'

4.The aforesaid Teacher was a part of the permission letter sent by the Management on 31.01.1996. When four vacancies were sought to be filled up by the Management in the ensuing retirement of four teachers in the sanctioned posts, this Court, had taken into



account the interest of the students and had therefore, directed the authorities to approve the appointment from the date of her original appointment.

5.In the instant case also, the fourth respondent had given a letter to the authorities on 31.01.1996 even prior to six months before the teachers in the sanctioned vacancy were due to retire. When the respondents had not acted upon the permission sought for by the Management, they were constrained to appoint the petitioner on 14.08.1996, by taking into account the interest of the School students, who may suffer for want of teacher. On such appointment, the Management had also submitted a proposal to the third respondent on 22.05.1997 seeking for ratification of the appointment since the request for filling up the vacancy was kept pending. Consequently, the fourth respondent had restricted the approval of appointment, i.e. 04.07.1997, the date on which the third respondent had granted permission.

6.I do not find any justification on the part of the respondents in restricting the approval. When the School Management had made an application on 31.09.1996 itself by drawing to the notice of the



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authorities that vacancies were due to arise on 31.05.1996, there was a duty cast on the third respondent herein to act on the application atleast before the date on which the vacancy was due to arise. Having kept it pending from 31.09.1996 till 04.07.1997, restricting the approval of appointment from 04.07.1997 is totally unacceptable and unlawful. The delay in acting upon the School Management's application for permission cannot be put against the teacher herein. By applying the ratio laid down in the case of similarly placed teacher in P.Hemavathy's case supra and in the light of the observations made in this order, the impugned order rejecting the request of the petitioner to approve her appointment from the date of her original appointment, cannot be sustained.

7. Accordingly, the impugned order dated 08.01.2001, 05.11.2015 and 28.03.2018 on the file of respondents 2, 4 and 3 respectively are quashed. Consequently, there shall be a direction to the fourth respondent herein to forthwith pass orders approving the petitioner's appointment with effect from 14.08.1996 and confer all the consequential benefits. Such orders shall be passed atleast within a period of four weeks from the date of receipt of a copy of this order.



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M.S.RAMESH,J.

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8.With the above direction, this writ petition stands allowed.
Consequently, connected W.M.P. stands closed. No costs.

08.12.2022

Index : Yes
vga

To

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