



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 5166 of 2022

and

W.M.P. No. 5267 of 2022

T.Stanly Backiaraj

... Petitioner

-vs-

1. The Chief Educational Officer
Thiruvallur
Thiruvallur District.
2. The District Educational Officer
Thiruvallur
Thiruvallur District.
3. The Block Educational Officer II
Poondi Union
Thiruvallur District.
4. The Headmaster
T.E.L.C. Primary School
Kaivendur - 631 203.
Thiruvallur District

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the Second Respondent in his proceedings in Na.Ka. No. 3654 /AA2 /2021 dated 24.01.2022 and quash the same and consequently, direct the Second Respondent to approve the appointment of the Petitioner as Secondary Grade Teacher with effect from date of his initial appointment on 01.08.2017 with all consequential benefits and in accordance with law.

For Petitioner : Mr. P.Ganesan

For Respondents: Mr. Stalin Abhimanyu
Additional Government Pleader



O R D E R

Heard Mr. P.Ganesan, Learned Counsel for the Petitioner and Mr. Stalin Abhimanyu, Learned Additional Government Pleader (Education) appearing for the First to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Fourth Respondent is a private school receiving grant-in-aid from the Government of Tamil Nadu for payment of salaries to its teachers. The Petitioner was appointed as Secondary Grade Assistant against a vacancy in the school of the Fourth Respondent by order dated 19.07.2017 passed by the Administrator, Tamil Evangelical Lutheran Church and claims that he has joined duty on 01.08.2017 and has been working as teacher in the said school from then onwards. The Fourth Respondent had forwarded the papers for approval of appointment of the Petitioner to the Third Respondent. In furtherance thereto, the Fourth Respondent by Order in AThiMu. No. 115/ A2/2021 dated 05.07.2021 returned the proposal for approval of appointment by informing the Fourth Respondent in view of G.O. Ms. No. 165, School Education Department dated 17.09.2019, the relevant vacancy would have to be filled by way of re-deployment of excess teachers in other schools under the Management of the Fourth Respondent against which the Petitioner has filed the Writ Petition in W.P. No. 19801 of 2021 and this Court by order dated 17.09.2021 quashed that order with liberty to him to approach the School of the Fourth Respondent to send a fresh proposal to the Second Respondent in that regard. Thereafter, the Second Respondent by Order in Na. Ka. No. 3654/ Aa2/2021 dated 24.01.2022 informed the Petitioner that his appointment in the School of the Fourth Respondent could not be approved in view of certain provisions of the Right of Children to Free and Compulsory Education Act, 2009, and as per G.O. No. 231, School Education Department dated 01.08.2010, the relevant vacancy would have to be filled by way of re-deployment of excess teachers in other schools under the Management of the Fourth Respondent. Aggrieved thereby, the Petitioner has filed this Writ Petition challenging the same.

3. It has been brought to notice that the contentious issues relating to granting of approval for appointment in aided private schools falling under the management of educational institutions establishing more than one school has been extensively delved into by the Division Bench of this Court in Secretary to Government -vs- Iruthaya Amali (Order dated 31.03.2021 in W.A. (MD) No. 76 of 2019 etc., batch) and has disposed those cases remitting the matter for fresh consideration before the concerned authority in terms of the directions issued therein. It is accepted by Learned Counsel for



both sides that the instant Writ Petition is also one such matter covered by that authoritative pronouncement of the Division Bench of this Court, which now holds the field.

4. In such circumstances, the Writ Petition is disposed on the following terms:-

- (i) the impugned Order in Na. Ka. No. 0461/A2/2020 dated 03.02.2020 passed by the Fourth Respondent is set aside;
- (ii) the concerned authority shall consider the matter afresh in accordance with the directions issued by the Division Bench of this Court in Secretary to Government -vs- Iruthaya Amali (Order dated 31.03.2021 in W.A. (MD) No. 76 of 2019 etc., batch) for approval of appointment of the Petitioner in the school of the Fifth Respondent for grant of aid for payment of his salary, if he is otherwise eligible for it and he had actually worked during the relevant period;
- (iii) if it is found that any details or supporting documents satisfying the eligibility criteria for the benefits claimed had not been produced, the deficiencies in that regard shall be informed in writing to the Petitioner and the Fifth Respondent requiring the same to be furnished within a time frame of not less than 15 clear working days;
- (iv) in the event of the concerned authority not being satisfied with the compliance of the requirements even thereafter, an enquiry shall be immediately conducted affording full opportunity of personal hearing to the Petitioner and the Fifth Respondent to explain their position in that regard and the concerned authority shall pass reasoned orders dealing with each of the contentions raised on merits and in accordance with law and communicate the decision taken under written acknowledgment;
- (v) if the Petitioner is entitled to the approval of appointment, it shall be ensured that the eligible amount of arrears of salary is paid within three months from the date of passing of that order, apart from the monthly salary for future months on the due dates;
- (vi) consequently, the connected Miscellaneous Petition is closed; and
- (vii) there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Maya



To

1. The Chief Educational Officer
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Copy to

The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

+1cc to Mr.P.Ganesan, Advocate, S.R.No.15368

W.P. No. 5166 of 2022

SPD(CO)
SB(05/04/2022)