

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.14326 OF 2022

S.Priya

... Petitioner

Vs.

1. The Commissioner,
Directorate of School Education,
DPI Campus, College Road,
Chennai-600006.
2. The Chief Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.
3. The District Educational Officer,
Thiruvannamalai Education District,
Thiruvannamalai.
3. The Correspondent,
Danish Mission Higher Secondary School,
Thiruvannamalai -606601

... Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the Respondents to approve the appointment of the petitioner in the sanctioned post of B.T. Assistant (Science) in the 4th respondent school from the date of appointment on 19.12.2018 with all consequential and other attendant benefits, including the arrears of salary, within a time frame to be fixed by this Court.

For Petitioner : Mr.S.Nedunchezhiyan

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

O R D E R

The prayer in the writ petition is to direct the Respondents to approve the appointment of the petitioner in the sanctioned post of B.T. Assistant (Science) in the 4th respondent school from the date of appointment on 19.12.2018 with all consequential and other attendant benefits including the arrears of salary within a time frame to be fixed by this Court.

2. According to the learned counsel appearing for the petitioner, the writ petitioner was appointed as B.T. Assistant (Science) in the 4th respondent School on 19.12.2018 as per the Resolution passed by the Executive Committee and the Church Board, followed by the order of appointment issued by the Secretary of ALC dated 17.12.2018. The fourth respondent submitted a proposal to the 2nd respondent through 3rd respondent 19.12.2018 seeking approval of the petitioner's appointment made by the fourth respondent School. However, the second respondent returned the proposal forwarded by the 4th respondent School by citing G.O.Ms.No.165 dated 17.9.2019. The petitioner has submitted representation dated 31.03.2022 to the respondents for approval of her appointment based on the appointment. However, no order has been passed by the respondents. Therefore, the petitioner has filed the present writ petition before this Court.

3. The prayer as 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 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."

4. In the light of the judgment cited supra, 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, in the light of the judgment cited supra, provided the said proposal satisfies all the norms prescribed for such appointment and as per the Rules, as expeditiously as possible preferably within a period of twelve (12) weeks from the date of receipt of copy of the order.

5. With the above directions, the writ petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

ak

To

1. The Commissioner,
Directorate of School Education,
DPI Campus, College Road,
Chennai-600006.
2. The Chief Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.
3. The District Educational Officer,
Thiruvannamalai Education District,
Thiruvannamalai.

+1cc to the Government Pleader, S.R.No.37178

W.P.No.14326 of 2022

JPL(CO)
RLP(12/07/2022)