

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Writ Petition No.17530 of 2014
and
M.P.Nos.1 & 2 of 2014

M.Martin

... Petitioner

Vs.

1. The Government of Tamil Nadu,
represented by its Secretary,
Department of School Education,
Fort St.George, Chennai - 9.
2. The Director of Elementary Education,
DPI Campus,
College Road, Chennai - 6.
3. The District Elementary Educational Officer,
Thiruvallur,
Thiruvallur District - 602 001.
4. The Assistant Elementary Educational Officer,
Minjur, Ponneri Taluk,
Thiruvallur District - 601 203.
5. The Correspondent,
R.C.M.Primary School,
Kottaikuppam,
Pazhaverkadu,
Thiruvallur District - 601 205.

... 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 proceedings dated 04.07.2011 in Na.Ka.No.863/A4/2011 and the consequential order dated 31.10.2012 in Mu.Mu.No.863/A4/2011 on the file of the third respondent and quash the same and direct the respondents to accord approval from the date of appointment with effect from 01.04.2010 to the petitioner Mr.M.Martin, working as Secondary Grade Assistant in R.C.M.Primary School, Kottaikuppam, Pazhaverkadu, Thiruvallur District, Pin: 601 205, regularising

his services with all attendant benefits.

For Petitioner : Mrs.A.Arul Mary

For Respondent : Mr.L.S.M.Hasan Fizal
Additional Government Pleader
[R1 to R4]
No appearance [R5]

O R D E R

The order dated 04.07.2011 and the consequential order dated 31.10.2012 are under challenge in the present writ petition. Further direction is sought for to accord approval from the date of appointment of the petitioner i.e. from 01.04.2010.

2. The petitioner states that he is fully qualified for appointment to the post of Secondary Grade Assistant as he possesses Diploma in Teachers Education Certificate. The petitioner was appointed in vacant post as Secondary Grade Assistant on 01.04.2010 in the fifth respondent minority aided school. The petitioner was appointed admittedly in a vacant post aroused on account of resignation of one M.Lumi on 31.10.2008. The petitioner is working from the date of appointment continuously without any break in service.

3. The fifth respondent school management submitted a proposal to approve the appointment of the petitioner in the post of Secondary Grade Assistant. The proposal was forwarded by the Assistant Elementary Educational Officer and finally, the District Elementary Educational Officer considered the proposal and granted approval with effect from 15.12.2010. The said approval date is under challenge in the present writ petition on the ground that the appointment was made in a vacant post and by following the procedures. Thus, the approval is to be granted from the date of initial appointment and not from 15.12.2010, which has no relevance at all.

4. Learned Additional Government Pleader appearing on behalf of the respondents 1 to 4 made a submission that no doubt the vacancy aroused in the fifth respondent school on 14.12.2009 and the appointment of the petitioner was made on 01.04.2010, but, the school management subsequently sent a letter on 15.12.2010 to grant approval and based on the said letter, the approval was granted from the said date and therefore, there is no infirmity as such in the action taken by the official respondents.

5. This Court is of the considered opinion that the date mentioned in the letter of the fifth respondent cannot be a

ground to confer approval of appointment. The approval of appointment is to be made with reference to the date of arising of vacancy and the date of appointment made by the school management in accordance with the rules in force. It is not in dispute that the vacancy aroused in the fifth respondent school on 14.12.2009 due to the resignation of one M.Lumi on 31.10.2008. In the said vacancy, the petitioner was appointed as Secondary Grade Teacher on 01.04.2010. While so, the appointment was made in a vacant post and there is no irregularity or otherwise in appointing the petitioner in the sanctioned post. The letter of the management dated 15.12.2010 may not have any relevance and the approval of appointment cannot be restricted based on the letter of the fifth respondent and it is to be granted on the date of actual appointment of the petitioner in view of the fact that the appointment was made in the vacant post and following the procedure contemplated.

This being the facts and circumstances, this Writ Petition is allowed and the orders impugned dated 04.07.2011 and the consequential order dated 31.10.2012 passed by the third respondent are quashed. The respondents 1 to 4 are directed to approve the appointment of the petitioner from the date of initial appointment i.e. from 01.04.2010 with all consequential benefits as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Secretary,
Government of Tamil Nadu,
Department of School Education,
Fort St.George, Chennai - 9.
2. The Director of Elementary Education,
DPI Campus,
College Road, Chennai - 6.
3. The District Elementary Educational Officer,
Thiruvallur,
Thiruvallur District - 602 001.

4. The Assistant Elementary Educational Officer,
Minjur, Ponneri Taluk,
Thiruvallur District - 601 203.

+2cc to Mr.Father Xavier Association , Advocate, S.R.No.36825

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AK-II(CO)
CT/08/07/2022