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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2022

CORAM

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

W.P. No. 24055 of 2019

M.Nalini

... Petitioner

-vs-

1. The Director of Elementary Education,
DPI Campus,
College Road,
Chennai - 600 006.
2. The District Educational Officer,
Tiruvallur District,
Tiruvallur.
3. The Block Educational Officer,
Poondy Union,
Tiruvallur District.
4. The Manager & Correspondent,
TELC Primary School,
Karani Nizampet - 631 210,
Poondi Range,
Tiruvallur District.

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the Second Respondent in Na. Ka. No. 2991/A2/2019 dated 24.07.2019 and quash the same and consequently directing the Respondents to approve the appointment of the Petitioner in the post of Secondary Grade Teacher in the Fourth Respondent School from the date of appointment on 01.03.2016 with payment of salary and other service benefits.

For Petitioner : Mr. G.Sankaran

For Respondents : Mr. Stalin Abhimanyu,
Additional Government Pleader (Education)
(for R1 to R3)
No appearance (for R4)



ORDER

Heard Mr. G.Sankaran, Learned Counsel for the Petitioner and Mr. Staling Abhimanyu, Learned Additional Government Pleader (Education) 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 Teacher against a vacancy in the school of the Fourth Respondent by Order in Na. Ka. No. 30/2016 dated 01.03.2016 passed by the Fourth Respondent and claims that she has joined duty on 01.03.2016 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 District Primary Educational Officer, Tiruvallur through the Additional Primary Educational Officer, Poondy Union. The District Primary Educational Officer, Tiruvallur by Order in Na. Ka. No. 3575/Aa4/2016 dated 23.02.2017 and the Additional Assistant Elementary Educational Officer, Poondy Union by Order in Na. Ka. No. 405/A2/2016 dated 28.02.2017 returned the said proposal to the Fourth Respondent stating that such appointment in the relevant vacancy could not be made in view of availability of two excess teachers in Poondy Union, apart from the failure to enclose certain other necessary certificates. Thereafter, the Petitioner had made a representation dated 12.04.2017 to the First Respondent, which was directed to be disposed by this Court by order dated 12.04.2019 in W.P. No. 14751 of 2017 within a period of four weeks from the date of its receipt. In furtherance thereto, the Second Respondent by Order in Na. Ka. No. 2991/Aa2/2019 dated 24.07.2019 informed the Petitioner that her 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. Having regard to the aforesaid submissions made, the following orders are passed:-

- (i) the impugned Order in Na. Ka. No. 2991/Aa2/2019 dated 24.07.2019 passed by the Second Respondent is set aside and the matter is remitted for 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);
- (ii) the concerned authority shall immediately consider the claim of the Petitioner for approval of her appointment in the school of the Fourth Respondent for grant of aid for payment of her salary, if she is otherwise eligible for it and 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 Fourth 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 conducted affording full opportunity of personal hearing to the Petitioner and the Fourth 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 to the concerned parties 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 one month from the date of passing of that order, apart from the monthly salary for future months on the due dates; and
- (vi) the concerned authority shall file a report of compliance in that regard by 30.06.2022 before the Registrar (Judicial) of this Court;



In the result, the Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-
Assistant Registrar

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//True Copy//

Sub Assistant Registrar

vjt

To

1. The Director of Elementary Education,
DPI Campus,
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2. The District Educational Officer,
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4. The Manager & Correspondent,
TELC Primary School,
Karani Nizampet - 631 210,
Poondi Range, Tiruvallur District.

Copy to

- 1.The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.
- 2.The Section Officer, Writ Section,
High Court, Madras-104.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.8471
+1cc to the Government Pleader, S.R.No.9186

W.P. No. 24055 of 2019

GPL(CO)
SB(02/03/2022)