



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.25304 OF 2021

AND

W.M.P.NOS.26707 & 26708 OF 2021

K.Rathna

... Petitioner

.Vs.

1. The Director of Elementary Education,
College Road, Chennai - 600 006.
2. The District Educational Officer,
Chidambaram, Cuddalore District.
3. The Block Educational Officer,
Kattumannarkoil -608301,
Cuddalore District.
4. The Secretary,
Aided Elementary School,
Keezhapazhanjanallur,
Kattumannarkoil,
Cuddalore District - 608 301.

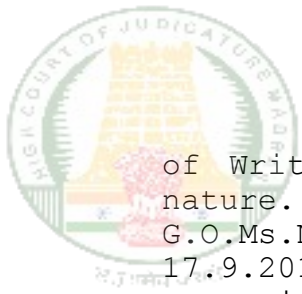
... Respondents

PRAYER:-

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the second respondent in O.Mu.No.1371/A5/2019 dated 17.11.2021 and quash the same and direct the second respondent to approve the petitioner's appointment in the post of Secondary Grade Teacher with effect from 12.06.2017 and grant all consequential benefits including monetary benefits.

For Petitioner : Mr.P.Mohanraj

For Responents : Mr.T.Chezhiyan
Additional Government Pleader



of Writ Appeals in W.A.(MD) No.76 of 2019 are prospective in nature. In the present case, the appointment was made prior to G.O.Ms.No.165 issued by School Education Department, dated 17.9.2019 and therefore, there is no legal impediment for approving the appointment made by the School Management to the aforesaid post in the light of the existing Rules thereunder.

5. The learned Additional Government Pleader for the respondents 1 to 3 submitted that as against the judgment passed by the Division Bench of this Court W.A.(MD) No.76 of 2019, etc. batch, the State Government has preferred an appeal before the Hon'ble Supreme Court in Special Leave to Appeal (C) No.15702 of 2021. It is further submitted that the Hon'ble Supreme Court stayed the judgment only in respect of Clause (i) of paragraph 95 of the said judgment. Further, it is also brought to the notice of this Court that the Division Bench in paragraph 6 of the said judgment, has observed that, 'no fresh appointment even in the sanctioned vacancy shall be made by any school which are managed by the Corporate Management.

6. The learned counsel appearing for the petitioner would submit that in the instant case, the appointment was made prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and the proposal was also sent to the educational authorities prior to G.O.Ms.No.165 dated 17.9.2019. Thus, G.O.Ms.No.165 dated 17.9.2019 and the Division Bench judgment will not bind over the appointment made by the School Management in the instant writ petition. Therefore, the learned counsel appearing for the petitioner seeks to quash the impugned order and consequently, direct the educational authorities to accord approval to the appointment of the petitioner to the post of Secondary Grade Teacher.

7. According to the learned Additional Government Pleader, the State Government has preferred an appeal before the Hon'ble Supreme Court in Special Leave to Appeal (C) No.15702 of 2021 as against the judgment passed by the Division Bench of this Court in the Batch of Writ Appeals in W.A.(MD) No.76 of 2019, etc. and obtained stay insofar as Clause (i) of paragraph 95 of the said judgment. Except the aforesaid clause (i) of paragraph 95, there was no stay in respect of remaining portion of the judgment. It is agreed by the learned Additional Government Pleader that the writ petitioner was appointed prior to the G.O.Ms.No.165 dated 17.9.2019 and therefore, it can be considered and an appropriate order may be passed.

8. On perusal of the judgment of the Division Bench of this Court in the aforesaid batch of cases and also 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 appointment made by the School Management in the instant writ petition is prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and proposal for the said appointment 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 impediment for the respondents to accord approval to the appointment made by the School Management in the instant writ petition.

9. Having regard to the rival submissions of the parties, taking note of the judgment passed by the Division Bench of this Court in W.A.(MD) No.76 of 2019, etc. batch, G.O.Ms.No.165 issued by the School Education department, dated 17.9.2019 will not prohibit the educational authorities to approve the appointment made by the School Management in the instant writ petition, since the proposal for approval of appointment made by the School Management was 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 that G.O.Ms.No.165 dated 17.9.2019 in proper perspective, has passed the impugned order rejecting the proposal submitted by the School Management. Therefore, the impugned order passed by the second respondent dated 17.11.2021 is liable to be quashed.

10. Accordingly, the impugned order passed by the second respondent in Proceedings in O.Mu.No.1371/A5/2019 dated 17.11.2021 is quashed and remitted to the Chief Educational Officers/District Educational Officer, Chidambaram/second respondent to consider and pass an order of approval of the appointment of the petitioner as Secondary Grade Teacher, made by the fourth respondent School management, 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.

11. With the above direction, the writ petition stands allowed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Jvm



To

1. The Director of Elementary Education,
College Road, Chennai - 600 006.

2. The District Educational Officer,
Chidambaram, Cuddalore District.

3. The Block Educational Officer,
Kattumannarkoil - 608 301,
Cuddalore District.

4. The Secretary,
Aided Elementary School,
Keezhapazhanjanallur,
Kattumannarkoil,
Cuddalore District - 608 301.

+1cc to Mr.P.Manoj Kumar, Advocate, S.R.No.33244

+1cc to the Government Pleader, S.R.No.34265

W.P.NO.25304 OF 2021

SJ(CO)
PBS/17/06/2022