



W.P.(MD)No.3164 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.3164 of 2020
and
W.M.P(MD)Nos.2696 and 2697 of 2020

A.Aruljothi

... Petitioner

Vs.

1.The Chief Educational Officer,
Kanyakumari District,
Kanyakumari.

2.The District Educational Officer,
Thuckalay Educational District,
Kanyakumari District.

3.The Correspondent,
St. Mary's Higher Secondary School,
Colachel,
Kanyakumari District.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the second respondent in O.Mu.No.1357/A1/2019 dated 15.05.2019 and to quash the same and



W.P.(MD)No.3164 of 2020

consequently directing the respondents 1 & 2 to approve the appointment of the petitioner in the post of B.T.Assistant (History) from the date of appointment on 01.06.2016 in the third respondent school with arrears of salary and other attendant benefits.

For Petitioner	: Mr.G.Sankaran
For R-1 & R-2	: Mr.S.Shaji Bino, Special Government Pleader
For R-3	: No Appearance

ORDER

This writ petition has been filed by the petitioner challenging the impugned proceedings issued by the second respondent in O.Mu.No.1357/A1/2019 dated 15.05.2019 and to direct the respondents 1 & 2, to approve the appointment of the petitioner in the post of B.T.Assistant (History) from the date of appointment on 01.06.2016 in the third respondent school with arrears of salary and other attendant benefits.

2. The case of the petitioner is that the third respondent school is a Government aided minority Institution governed by the provisions of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and the Rules made thereunder. When a vacancy arose in the post of



W.P.(MD)No.3164 of 2020

WEB COPY

B.T.Assistant(History) due to the retirement of an incumbent, the petitioner was selected and appointed in the said post on 01.06.2016. Subsequently, the third respondent school forwarded a proposal to the second respondent seeking approval of appointment of the petitioner in the post of B.T.Assistant(History). However, the second respondent returned the proposal vide impugned proceedings, dated 15.05.2019, stating that the post of B.T.Assistant (History) in the third respondent school is declared as surplus as per the staff fixation order for the year 2016-2017 and therefore, approval cannot be granted. Challenging the same, the petitioner has filed the present writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that as per G.O(1D).No.266 School Education Department dated 06.07.2012, there must be five B.T.Assistants for standards 6 to 10 upto students strength of 160 and the post of B.T.Assistant should be increased for every 30 students, over and above 160. In respect of the third respondent school, there are about 485 students studying in



W.P.(MD)No.3164 of 2020

WEB COPY

Standards 6 to 10. Therefore, it is highly arbitrary and illegal to state that there are surplus teachers as stated in the impugned order. The learned counsel would further state that the staff fixation order itself is erroneous, since for the year 2015-2016, it has been shown as one post of B.T.Assistant(History) and in the staff fixation order for the year 2016-2017, it is stated as surplus. Again for the year 2017-2018, the said post is stated to be within the sanctioned strength. Hence, the reliance on the erroneous staff fixation order cannot be a reason to reject the approval of appointment of the petitioner, who was appointed on 01.06.2016.

4. Per contra, the learned Special Government Pleader appearing for the respondents 1 and 2, would submit that the third respondent school is a religious minority school receiving grants in aid from the Government of Tamil Nadu and the students strength of the third respondent school from standards 6 to 10 in the academic year 2016-2017, is 434 and the teaching staff permitted is 11 and the number of teachers working is 11 (ie., four B.T.Assistants and seven Secondary



W.P.(MD)No.3164 of 2020

WEB COPY

Grade Teachers) and the petitioner has been appointed in the surplus post of B.T.Assistant(History) and hence, the proposal sent for the approval of appointment of the petitioner was rejected, which is perfectly in order and the same need not be interfered with at the hands of this Court.

5. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2 and perused the materials placed before this Court.

6. The facts of the case are not in dispute. The petitioner claims that she was appointed in the post of B.T.Assistant(History) in the third respondent school in the vacancy that arose on 31.05.2016. Subsequently, the third respondent sent a proposal to the second respondent for approval of the appointment of the petitioner. However, the proposal was sent by the third respondent only on 01.03.2019 whereas the petitioner claims that she was appointed on 01.06.2016. However, the said post was declared as surplus on 31.10.2016 in the third respondent school and without challenging the order dated



W.P.(MD)No.3164 of 2020

WEB COPY

31.10.2016, where the said post was declared as surplus, the petitioner cannot challenge the impugned order passed by the second respondent and therefore, the prayer sought for by the petitioner cannot be granted.

7. In the result, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

06.12.2022

pm

To

- 1.The Chief Educational Officer,
Kanyakumari District,
Kanyakumari.
- 2.The District Educational Officer,
Thuckalay Educational District,
Kanyakumari District.



WEB COPY



W.P.(MD)No.3164 of 2020

M.DHANDAPANI,J.

pm

W.P.(MD)No.3164 of 2020

06.12.2022