



W.P.(MD)No.4316 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4316 of 2020

T.Lizzie

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Secretary to Government,
School Education Department,
Secretariat, Chennai – 9.
2. The Director of School Education,
College Road, Chennai.
3. The Chief Educational Officer,
Nagercoil,
Kanyakumari District.
4. The District Educational Officer,
Thuckalay,
Kanyakumari District.
5. The Correspondent,
LMS Higher Secondary School,
Kadamalaikuntu,
Mekkamandapam Post,
Kanyakumari District.

.... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondent to approve the appointment of the petitioner as Office Assistant with effect from 15.02.2006 ie., from the date of appointment and to regularize the service of the petitioner from 15.02.2006 to 31.05.2009, by considering the proposal of the 5th respondent dated 30.04.2019, 30.07.2019 and the reminder proposal dated 07.02.2020 and to disburse all the monetary and service benefits consequent to the same within a time that may be fixed by this Court.

For Petitioner : Mr. T.Jeen Joseph
For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, directing the fourth respondent to approve the appointment of the petitioner as Office Assistant with effect from 15.02.2006 ie., from the date of appointment and to regularize the service of the petitioner from 15.02.2006 to 31.05.2009, by considering the proposal of the 5th respondent dated 30.04.2019, 30.07.2019 and the reminder proposal dated 07.02.2020 and to disburse all the monetary and service benefits consequent to the



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same.

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2. The learned counsel appearing for the petitioner would submit that the petitioner has completed SSLC and registered her qualification in the District Employment Office at Nagercoil, Kanyakumari District, so as to get suitable employment. Thereafter, she was appointed as Part Time Sweeper on 25.10.1993 in LMS Higher Secondary School, South Tamarikulam. The fifth respondent School is an aided minority institution. There was a vacancy arose in the fifth respondent School in the post of Office Assistant, due to transfer of one M.Vincent. Hence, the petitioner has made an application to the fifth respondent. The fifth respondent, by order dated 15.02.2006, appointed the petitioner as Office Assistant and she has also joined the said post on the same day. Thereafter, on 04.05.2006, the fifth respondent school sent a proposal to the fourth respondent to approve the petitioner's appointment. On receipt of the said proposal, the fourth respondent by proceedings dated 21.03.2007, returned the proposal.

3. Pursuant to the proposal sent by the fifth respondent school, the fourth respondent by proceedings dated 03.03.2010, approved her



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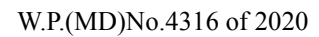
appointment with effect from 01.06.2009 and not from the date of her original appointment ie., from 15.02.2006. The petitioner has worked in the fifth respondent School from 15.02.2006 to 31.05.2009, without any salary and proposals were also sent during the said period. Again, the fifth respondent school by letter dated 30.04.2019 and 30.07.2019, sent the proposals to the fourth respondent to regularize the service of the petitioner from 15.02.2006 to 31.05.2009. The fourth respondent, by proceedings dated 06.12.2019, returned the proposal of the fifth respondent. Again, the fifth respondent resubmitted the proposal by letter dated 30.04.2019 and 30.07.2019. Despite the receipt of the same, the fourth respondent kept pending the proposal resubmitted by the fifth respondent. Since there was no response, the petitioner has filed the present writ petition seeking direction to the fourth respondent to approve the appointment of the petitioner as Office Assistant with effect from 15.02.2006 ie., from the date of appointment and to regularize the service of the petitioner from 15.02.2006 to 31.05.2009, by considering the proposal of the 5th respondent dated 30.04.2019, 30.07.2019 and the reminder proposal dated 07.02.2020 and to disburse all the monetary and service benefits



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4. Per contra, the learned Special Government Pleader appearing for the respondents would submit that the fifth respondent School is a minority School getting aid from the Government of Tamil Nadu and in the guise of minority status, the fifth respondent School appointed the petitioner on 15.02.2006 as Office Assistant and submitted a proposal for approving the appointment of the petitioner on 04.05.2006. As there was a ban on appointment of non-teaching staff, the proposal was returned. The teaching staff are fixed as per the instructions contained in G.O.(Ms.)No.525, dated 27.12.1997. The non-teaching staff are governed by separate Rules. The Government issued revised norms for fixing non-teaching staff in G.O. (Ms).No.583, Education and Public Health Department, dated 23.04.1966. As per the said G.O., there was no clerk, if the students strength is below 250. Again, the Government issued G.O.(Ms).No.245, dated 21.02.1970 and according to the same, the schools were allowed to retain the strength of non-teaching staff actually employed on the date with reference to the scale prescribed in Directors procs. No.189/D2/51, dated 18.08.1951. The private aided schools shall not make appointment to non-teaching posts without



5. Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

6. The facts in the present case are not in dispute. The grievance of the petitioner is that she was appointed as Office Assistant on 15.02.2006 by the fifth respondent School. However, his service was regularised only on 01.06.2009, vide order dated 03.03.2010 and not from the date of initial appointment ie., from 15.02.2006. The fact remains that there were several Government Orders were passed in respect of teaching staff and non-



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teaching staff. The non-teaching staff is governed by separate Rules. The schools established before 1964 were allowed to retain the non-teaching staff in service. In the present case, without getting prior approval from the Education Department, the non-teaching post was filled up by the fifth respondent School. Thereafter, the fifth respondent School forwarded a proposal for approval of appointment to the fourth respondent. The approval was granted only on 03.03.2010 with effect from 01.06.2009. Though the said appointment was approved only in the year 2009, after lapse of 10 years, the fifth respondent School, at the instigation of the petitioner, sent a proposal for approval of appointment of the petitioner from the date of her initial appointment. However, no reason was assigned in the proposal for not taking steps for more than a decade and belatedly sent the proposal after lapse of 10 years, which is not sustainable one. Hence, the prayer sought for by the petitioner cannot be granted and the writ petition is dismissed. No costs.

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Index : Yes / No

Speaking Order : Yes / No

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To

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School Education Department,
Secretariat, Chennai – 9.
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M.DHANDAPANI,J.

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