



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 28.01.2022
DELIVERED ON: 22.02.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY
CONT.P(MD)No.861 of 2021
IN
WP (MD)No.4554 of 2015

A. Johnson Selvakumar ... Petitioner

vs

S.Annalakshmi
Bolck Educational Officer -cum-
Additional Assistant Elementary Educational Officer,
Kalakadu Range, Kalakadu - 627 501,
Tirunelveli District. ...
Respondent

PRAYER: Petition filed under under Section 11 of the Contempt of Court Act, 1971, to punish the respondents herein for their willful disobedience of the order passed by this Court in W.P.(MD) No.4554 of 2015, dated 07.01.2020.

Prayer in WP(MD) . 4554 of 2015 :

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance a Writ of Mandamus, to direct the respondent to approve the appointment of the petitioner as Secondary Grade Teacher from 03.07.2000 and to pay the salary from 03.07.2000 to 31.03.2004 to the petitioner and confer all the consequential benefits and pass any other further or other orders.

For Petitioner : Mr.M.S.Suresh Kumar

For Respondents : M/S.D.Farjana Ghoushia
Special Government Pleader

O R D E R

This contempt petition is filed alleging willful disobedience of the order passed by this Court in W.P.(MD)No.4554 of 2015, dated 07.01.2020, this Court has directed the fourth respondent to



approve the appointment of the petitioner as Secondary Grade Teacher with effect from 03.07.2000 and also directed to pay the monetary benefits from the said dated within a period of twelve weeks.

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2. The case of the petitioner is that the petitioner was appointed as Secondary Grade Teacher in the fifth respondent School in the existing vacancy on 03.07.2000. The third respondent, vide proceedings, dated 09.11.2004, approved the appointment of the petitioner and granted monetary benefits from 01.04.2004. The claim of the petitioner is that the petitioner was appointed as Secondary Grade Teacher on 03.07.2000, but the respondent \ contemnor has approved the appointment with effect from 01.04.2004. The petitioner has been working right from the date of his appointment as against the existing vacancy. The respondents have stated before the Writ Court that the fifth respondent School instead of transferring one of the surplus teacher to another School under the same Management has appointed the petitioner through direct recruitment and has committed irregularity. The issue of transferring / deploying the surplus Teachers was contested before Division Bench in W.A. (MD) No. 76 / 2018. The issue of surplus Teachers is a perennial problem in the Educational Department. Earlier in a Division Bench, this Court has held that the surplus Teachers ought to be transferred / deployed by the Educational authorities. However, in a latest Division Bench judgment in W.A.(MD)No.76 of 2018, this Court has directed the School Managements to deploy their Teachers among their Corporate Management. The Administration of the Minority Schools is an exclusive right granted to the Minority Educational Institutions. In T.M.A Pai foundation, the Honourable Supreme Court has held that Government has no right to interfere in the internal Management of the Minority Education. If transfer orders are passed by the department, in would be interfering in the administration of the minority schools.

3. The Schools cannot recruit any fresh person before deploying the surplus teachers and therefore, the approval was granted in this present case after the deployment of the surplus Teachers. The School is liable to pay the salary if they appointment anybody in the surplus post. Since the issue has been settled now through the Division Bench order in W.A.No.76 of 2018, this Court is of the considered opinion that the School is bound to pay the salary and directing the School to pay the salary from the year 2000-2004 to the petitioner. In Rule 6 (1) of Tamil Nadu Minority Schools (Recognition and Payment of Grants) Rule, it has been stated that the School is eligible for grant-in-aid after the approval of appointment. In this case, since the approval has been granted in the year 2004 only, then the School is eligible



for the grant-in-aid in the year 2004 onwards and not from the date of appointment. More so, when the school has appointed the petitioner in spite of surplus Teachers in the School Management. The School is expected to act responsibly, since it is dealing with public money and the school is liable to pay the salary to the petitioner. In order to follow some uniformity in the issue of surplus Teacher, this Court, is inclined to direct the School to pay salary for the period 03.07.2000 to 01.04.2004 and comply with the order of this Court. There is no willful disobedience by the official respondent, since the Government has submitted the statement of expenditure on the surplus teachers. The petitioner is at liberty to challenge against the School regarding salary.

4. Hence the Contempt Petition is closed. No costs.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

S.Annalakshmi

Bolck Educational Officer -cum-

Additional Assistant Elementary Educational Officer,
Kalakadu Range, Kalakadu - 627 501,
Tirunelveli District.

+1cc to Mr.M.SURESH KUMAR, Advocate Sr.No.7843

+1cc to Special Government Pleader, Sr.No.8080

Pre-delivery Order made in
CONT.P(MD)No.861 of 2021
22.02.2022

SA(05.03.2022) 3P 4C