



W.P(MD)No.12099 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12099 of 2021

Hindu Middle School
Sangaanapuram
Tirunelveli District-627 114
represented by its Secretary
Mr.G.Sivamony

... Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep. by its Secretary to the Education,
Department of Education,
Fort. St. George,
Chennai-9.
- 2.The Director of Elementary School Education,
College Road,
Chennai-6.
- 3.The District Educational Officer,
Valliyur,
Tirunelveli District.
- 4.The Block Development Officer,
Valliyur,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus, to direct the 3rd respondent to



W.P(MD)No.12099 of 2021

approve the appointment of Mrs.L.Subulakshmi as secondary grade teacher in the petitioner's school namely Hindu Middle School, Sanganapuram, Tirunelveli District-627 114 with salary and other monetary benefits with effect from 18.03.2019 as per the recommendation made by the 4th respondent in Na.Ka.No.215/Aa1/2021 dated .04.2021 and as per the representation made by the petitioner dated 15.04.2021 and in the light of similar order passed by the 3rd respondent in Na.Ka.No.3350/A1/2019 dated 27.04.2021.

For Petitioner : Mr.K.K.Kannan

For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is an aided middle school. A post of secondary grade teacher fell vacant following the voluntary retirement of one Ramachandran on 10.01.2019. The management submitted a proposal to the competent authority for permission to fill up the said vacancy. The competent authority issued the proceedings dated 14.02.2019 permitting the petitioner to fill up the vacancy subject to certain terms and conditions. One of the conditions was that paper publication must be made advertising the vacancy. It was also stipulated that the candidate must have TET qualification. Conforming to such requirements, the petitioner conducted the selection process



W.P(MD)No.12099 of 2021

and finally appointed one L.Subbu Lakshmi to the said post. She also reported for duty on 18.03.2019 and she is said to be continuously working in the said post without salary. Proposal was submitted seeking approval of the appointment. Since it was not processed, the petitioner filed W.P.(MD)No. 23031 of 2019. Vide order dated 01.11.2019, the DEO, Valliyur, Tirunelveli District was directed to consider the same and pass appropriate orders on merits and in accordance with law. Pursuant to the said direction, the proposal was taken up and rejected vide proceedings dated 02.09.2020 on the file of the DEO, Valliyur. Questioning the same, the petitioner had filed W.P.(MD)No. 11886 of 2020. The same was taken up along with a batch of writ petitions and given disposal on 31.03.2021. Since the rejection order dated 02.09.2020 is anchored on G.O.Ms.No.165, dated 17.09.2019, the said G.O was hold as inoperative in the said common order dated 31.03.2021. Therefore, the proceedings dated 02.09.2020 would go as a matter of course. Thereafter, the petitioner filed one more representation dated 15.04.2021 seeking approval of the appointment of L.Subbu Lakshmi as secondary grade teacher. Since it was not considered, the present writ petition came to be filed.

3. The learned Special Government Pleader appearing for the respondents submitted that in Tirunelveli District, during the relevant time, there were



W.P(MD)No.12099 of 2021

surplus teachers. Therefore, the vacancy that occurred in the petitioner school can only be filled up by redeploying any one of those surplus teachers. Otherwise, the State will be put to needless financial burden. This is the purport of the decision rendered in W.A.(MD)No.76 of 2019. He therefore called for dismissal of the writ petition.

4. I carefully considered the rival contentions and went through the materials on record.

5. The contention and objection urged by the learned Special Government Pleader appearing for the respondents is based entirely on the decision rendered by the Hon'ble Division Bench in W.A.(MD)No.76 of 2019. But the said decision was rendered only on 31.03.2021. In other words, the said decision was given subsequent to the cause of action that is the subject matter of this writ petition. Therefore, the petitioner cannot be non-suited by referring to the subsequent Division Bench decision. There is no dispute that the writ petitioner is an aided educational institution. Vacancy arose in a sanctioned post following the voluntary retirement of an incumbent. The petitioner was also specifically permitted by the competent authority to fill up the said vacancy. The petitioner had acted in terms of the stipulations set out in



W.P(MD)No.12099 of 2021

the order granting permission. The appointee namely L.Subbu Lakshmi is also fully eligible to be appointed.

6. In these circumstances, to say no to the writ petitioner by contending that there are surplus teachers in the district is clearly unfair and unreasonable. I therefore direct the third respondent to forthwith approve the appointment of L.Subbu Lakshmi in the post of secondary grade teacher in the writ petitioner school with effect from the date of her original appointment ie., 18.03.2019. Grant-in-aid towards her salary and other allowances shall be disbursed forthwith.

7. The Writ Petition is allowed. No costs.

20.09.2022

Index : Yes / No

Internet : Yes/ No

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To

1.The Secretary to the Education,
Department of Education,
Fort. St. George,
Chennai-9.

2.The Director of Elementary School Education,
College Road,
Chennai-6.



W.P(MD)No.12099 of 2021

G.R.SWAMINATHAN, J.

rmi

3.The District Educational Officer,
Valliyur,
Tirunelveli District.

4.The Block Development Officer,
Valliyur,
Tirunelveli District.

W.P(MD)No.12099 of 2021

20.09.2022