

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15506 of 2021
and
W.M.P.(MD)No.12435 of 2021

S.Beaula Jasmine Jeyarani,
B.T.Assistant (Maths),
St.John's Higher Secondary School,
Palayamkottai,
Tirunelveli District.

... Petitioner

Vs.

1.The Joint Director of Secondary Grade Education,
College Road, Chennai – 6.

2.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

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

4.The Correspondent,
St.John's Higher Secondary School,
Palayamkottai,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorarified Mandamus, calling for the

records relating to impugned order in O.Mu.No.48826/D2/E3/2019 dated 01.10.2020 of the 1st respondent herein and quash the same and consequently direct the respondents 1 to 3 herein to approve the appointment of the petitioner as B.T. Assistant (Maths) in the 4th respondent school w.e.f. 07.07.2014 with all consequential attended monetary benefits and privileges, based the order passed in WA(MD) No.1350 of 2017 dated 14.11.2017.

For Petitioner : Mr.T.Pon Ramkumar

For Respondents : Mr.S.Shani Bino,
Spl. Government Pleader for R1 to R3.
No appearance for R4.

ORDER

Heard the learned counsel on either side.

2.A post of secondary grade teacher fell vacant following the retirement of the incumbent in the fourth respondent school. The fourth respondent school is a minority institution. The writ petitioner was appointed as B.T.Assistant on 07.07.2014. By virtue of G.O.(Ms) No.79, School Education Department, dated 14.06.2002, once the post of secondary grade teacher falls vacant, it has to be converted into the post of B.T.Assistant. The school management submitted a proposal to the first respondent seeking permission for such

conversion. Permission was granted on 24.10.2017. In the meanwhile, approval for the appointment of the writ petitioner was also submitted. The third respondent granted approval of the writ petitioner's appointment with effect from the date of grant of permission for such conversion ie., 24.10.2017. Contending that approval should have been granted with effect from the date of original appointment, the present writ petition has been filed.

3.The learned Special Government Pleader for the respondents 1 to 3 submitted that the impugned order does not call for interference.

4.I am not able to accept the aforesaid contention of the learned Special Government Pleader. In fact, the issue on hand is no longer *res integra*. It is squarely covered by the judgment dated 14.08.2020 made in W.A.(MD)No.201 of 2020. Paragraph Nos.10 and 16 of the judgment are relevant and they read as follows:-

10. A Division Bench of this Court, in the judgment dated 14.11.2017 passed in W.A(MD)No.1350 of 2017 [The Government of Tamil Nadu, rep., by the Secretary to Government, Department of School Education, Fort St. George, Madras – 600 009 and others v. J.Remila and another reported in 2018 (1) WLR 410], has considered the scope of G.O.Ms.No.79, School Education Department, dated 14.06.2002 (referred to above) and also the stand of the second respondent as to the non-necessity for obtaining prior permission from the concerned authority for conversion of the post of Secondary Grade Teacher

to B.T., Assistant and that the second respondent is a recognised minority institution and found that the only issue that arose for consideration is, whether without obtaining prior permission for conversion of post from the appellants/official respondents, the appointment of the first respondent made by the second respondent as B.T., Assistant (Social Science) is in order?

16.

(i) The Director of School Education, College Road, Chennai – 6 and others v. S.Vanitha and others [W.A.(MD)Nos.828 of 2014 and 129 to 132 of 2015, decided on 22.04.2016], wherein at paragraph 11, it is observed as follows:

“11. In view of the above consistent decisions of this Court on the issue, we are of the view that the issue is no more res integra. As rightly contended by the learned counsel for the 1st respondents/teachers, approval has to be granted only from the date of appointment and not from a later date, namely, from the date on which permission for post conversion was granted.”

5.The case on hand is identical. Respectfully following the aforesaid judgment, the impugned order is quashed and the respondents 1 to 3 are directed to approve the appointment of the writ petitioner as B.T Assistant (Maths) in the fourth respondent school with effect from 07.07.2014 with all consequential and attendant monetary benefits. The benefits shall be disbursed within a period of twelve weeks from the date of receipt of a copy of this order.

6.The writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

09.09.2022

Index : Yes / No
Internet : Yes/ No
ias

To:-

- 1.The Joint Director of Secondary Grade Education,
College Road, Chennai – 6.
- 2.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 3.The District Educational Officer,
Tirunelveli,
Tirunelveli District.

W.P(MD)No.15506 of 20216.

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.15506 of 2021

09.09.2022