

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**DATED: 06.09.2022****CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.P.(MD)No.16670 of 2019**

Rajah's Higher Secondary School,
Rep. by its Secretary,
Ramanathapuram – 623 501,
Ramanathapuram District.

... Petitioner

Vs.

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

2. The District Educational Officer,
Ramanathapuram,
Ramanathapuram District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the 1st respondent in Mu.Mu.No.5282/A5/2019 dated 17.07.2019, quash the same and further direct the respondents herein to approve forthwith the appointment of N.Ganga as Post Graduate Assistant (English) in the petitioner-school from 18.07.2018 onwards with salary and other attendant benefits.

For Petitioner : Mr.E.V.N.Siva

For Respondents: Mr.S.Saji Bino

* * *

ORDER

Heard the learned counsel on either side.

2. The management of a private aided school is the writ petitioner herein. It appointed one Ms.N.Ganga to the post of Post Graduate Assistant (English), when vacancy arose on 01.06.2017. There is no dispute that it was a sanctioned vacancy. After obtaining prior permission, the writ petitioner took steps to fill up the said vacancy. N.Ganga was found eligible and suitable and she was appointed in the said sanctioned vacancy on 18.07.2018. The candidate also joined the duty on the same date. Thereafter, proposal was sent to the first respondent on 03.08.2018 through the second respondent seeking approval of the appointment. By the impugned order dated 17.07.2019 the proposal was returned and approval was denied. The rejection order dated 17.07.2019 passed by the first respondent is put to challenge in this writ petition.

3. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of this writ petition. He pointed out that the issue raised in this writ petition is squarely covered by an earlier decision of this Court. He called upon this Court to quash the order impugned in the writ petition and direct the respondents to approve the appointment of the candidate in question.

4. Per contra, the learned Special Government Pleader appearing for the respondents submitted that the writ petitioner is receiving aid from the Government. Rule 11 of the Tamil Nadu Recognised Private Schools (Regulation) Rules categorically states that the payment of grants shall be subject to Government orders and instructions issued from time to time. Whatever is applicable to the Government teachers would also correspondingly apply to the teachers and staff appointed to the private schools also. He submitted that the impugned order does not call for any interference.

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

6. The reason for rejecting the petition mentioned proposal is that the candidate N.Ganga had done B.Sc. (Maths) in April 2003 and she had done M.A.(English) in April 2015. In other words, she did not study the same subject in bachelor degree and master degree. The reason for taking the said stand is in view of G.O.Ms.No.361 School Education Department, dated 31.12.1999. A clear reference is made to the aforesaid Government Order in the impugned order.

7. As rightly pointed out by the learned counsel appearing for the writ petitioner, the issue is no longer *res integra*. The Hon'ble Division Bench of Madras High Court in the decision reported in **2009 (2) TLNJ 101 (The Director of School Education, College Road, Chennai – 6 and Others V. Geldon Wifred Viola and Another)** had held that the qualifications prescribed in the aforesaid Government Order are primarily intended for the appointment of teachers in the Government schools and that it has no application to the

teachers in private schools and those teachers are governed only by the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and Rules framed therein. In the present case, Annexure V(iv) contemplates that the candidates should possess a Master degree in the relevant subject for appointment as Post Graduate Assistant. Admittedly, the candidate N.Ganga possesses M.A.(English) degree. She does fulfil the qualifications prescribed in the relevant statutory rule. The first respondent has applied G.O.Ms.No.361 School Education Department, dated 31.12.1999 to the return the petition-mentioned proposal. The said Government Order is found to be not applicable to the teachers appointed in private schools. The first respondent has failed to take note of the aforesaid decision of the Hon'ble Division Bench of Madras High Court which was rendered as early as on 23.03.2009.

8. In this view of the matter, the order impugned in this writ petition is set aside. The respondents are directed to approve forthwith the appointment of Ms.N.Ganga as Post Graduate Assistant (English) to the petitioner's school with

effect from 18.07.2018. All the consequential service and monetary benefits shall be disbursed forthwith and without any delay. This writ petition stands allowed. No costs.

06.09.2022

Index : Yes / No

Internet : Yes/ No

PMU

To:

1. The Chief Educational Officer,
Ramanathapuram District,
Ramanathapuram.
2. The District Educational Officer,
Ramanathapuram,
Ramanathapuram District.

G.R.SWAMINATHAN,J.

PMU

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