



WEB COPY

W.P.(MD)Nos.13515 of 2014 and 13242 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.13515 of 2014 and 13242 of 2017,

M.P.(MD)Nos.1 of 2014 and 1 of 2015

and

W.M.P.(MD)Nos.10475 of 2017,
2367 of 2018 and 17746 of 2022

W.P.(MD)No.13515 of 2014:

G.Hazira Begum

... Petitioner

vs.

- 1.The Director of School Education,
Chennai- 600 006.
- 2.The Joint Director (Higher Secondary Education),
Diretorate of School Educaion,
Chennai - 600 006.
- 3.The Chief Educational Officer,
Thiruchirappalli-620 008.
- 4.The District Educational Officer,
Thiruchirappali-620 001.



W.P.(MD)Nos.13515 of 2014 and 13242 of 2017

WEB COPY

5.The Head Master,
Khajamian Higher Secondary School,
Khaja Nagar,
Thriuchirappalli-620 020.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the 4th respondent to consider the petitioner's representation, dated 12.07.2014, within a stipulated period of time as this Court may fix and to approve the petitioner appoint to the post of Post Graduate Assistant (Tamil) in the 5th respondent School with effect from 21.12.2012 and further, to grant salary and arrear of salary to the petitioner.

For Petitioner	: Dr.D.Gnanasekaran
For R1 to 4	: Mr.J.John Rajadurai Government Advocate (Civil side)
For R5	: Mr.P.Arun Jayatram

W.P.(MD)No.13242 of 2017:

Akilaparveen

... Petitioner

vs.

1.The District Educational Officer,
Office of District Educational Officer,
Trichy – 1.

2.The Secretary and Correspondent,
Khajamian Higher Secondary School,
Khaja Nagar,
Trichy – 20.

... Respondents



WEB COPY

W.P.(MD)Nos.13515 of 2014 and 13242 of 2017

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the the 2nd respondent to send the proposal sought by the 1st respondent through in A.Thi.Mu.No.4106/A.3/12, dated 31.07.2012, based on the petitioner's representation, dated 03.06.2017.

For Petitioner : Mr.Sathish Kumar
for Mr.M.Chandrabose
For R1 : Mr.J.John Rajadurai
Government Advocate (Civil side)
For R2 : Mr.P.Arun Jayatram

COMMON ORDER

The writ petition in W.P.(MD)No.13242 of 2017 is filed for issuance of Writ of Mandamus, to directing the 2nd respondent to send the proposal sought by the 1st respondent, dated 31.07.2012, based on the petitioner's representation, dated 03.06.2017.

2.The brief facts as stated in the affidavit of W.P.(MD)No.13242 of 2017 are that the petitioner was appointed as B.T. Assistant in the 2nd respondent School on 01.06.1992. The contention of the petitioner is that when she was appointed, she was informed by the respondents that since the petitioner has



W.P.(MD)Nos.13515 of 2014 and 13242 of 2017

WEB COPY

completed cross major degree, the petitioner's promotion aspect will be affected. In the year 1999, the petitioner joined B.A. Tamil in authorized University and completed the course in the month of April 2002. Further, the petitioner was promoted as a P.G. Assistant on 01.06.2012 and one G. Hajirabegam was appointed as B.T Assistant in the resulting vacancy i.e. in the place of the petitioner. The school had submitted the proposal for approval but the 1st respondent had returned the proposal, vide proceedings, dated 31.07.2012, in which it was directed the 2nd respondent to send the proposal regarding the vacancy for the post of P.G. Assistant. Further the 1st respondent has returned the proposal in the year 2012, nearly after 5 years from the date of appointment. The 2nd respondent had not chosen to send the proposal even after repeated request. From 1992-2012, the petitioner worked as a B.T Assistant and from 2012 onwards the petitioner was working as P.G. Assistant in the 2nd respondent school without getting approval from the 1st respondent.



W.P.(MD)Nos.13515 of 2014 and 13242 of 2017

WEB COPY

3. Since the petitioner has put in 25 years of service as a Teacher without having any adverse report, the petitioner contended the return by the 1st respondent is not in accordance to law. Moreover, the return only indicates to state about the vacancy for the post of P.G. Assistant. Even after repeated request, since the 2nd respondent has not submitted the proposal, the petitioner has come up with this writ petition.

4. In the meanwhile, the said G.Hajirabegam has filed the writ petition in W.P.(MD)No.13515 of 2014, with a prayer for issuance of Writ of Mandamus, to direct the 4th respondent to consider the petitioner's representation, dated 12.07.2014, within a stipulated period of time as this Court may fix and to approve the petitioner appoint to the post of P.G. Assistant (Tamil) in the 5th respondent School with effect from 21.12.2012 and further, to grant salary and arrear of salary to the petitioner.



W.P.(MD)Nos.13515 of 2014 and 13242 of 2017

WEB COPY

5. The contention of the said G.Hajirabegam is that she had completed M.A.(Tamil), Diploma in Pulavar and B.Ed., and she is qualified for the post of P.G. Assistant (Tamil) and B.T. Assistant (Tamil). The 5th respondent school is an aided minority institution. At present, the school is under direct payment with effect from May, 2013, onwards. The School has two sanctioned posts in the post of P.G. Assistant (Tamil). One post fell vacant on 01.06.2012 due to the retirement of one S.D.Sirajdhoulah on 31.05.2012 on attaining the age of superannuation. One K.Aahila Parveen, who had been working as B.T. Assistant (Tamil) in the said school, was appointed to the said vacant post on 01.06.2012 as P.G. Assistant (Tamil). The said G.Hazirabegum was appointed to the post of B.T. Assistant (Tamil) which was resulted vacancy due to the promotion of K. Aakila Parveen. Proposals were sent to the 4th respondent for approval of the appointment of the said K.Aakila Parveen to the post of Post Graduate Assistant (Tamil) and Hazira Begum's appointment to the post of B.T. Assistant (Tamil). The proposal for approval for the appointment of K. Aakila Parveen was returned



W.P.(MD)Nos.13515 of 2014 and 13242 of 2017

WEB COPY

unapproved and consequently, the proposal for approval of the petitioner's appointment as B.T. Assistant (Tamil) was also returned unapproved.

6. Since the said Aakila Parveen was found ineligible to be appointed to the said post of Post Graduate Assistant (Tamil), further, since Hazirabegum possess necessary qualifications, she was appointed to the post with effect from 21.12.2012. Agreement in Form VII A has been executed under Rule 15 of the Tamil Recognized Private Schools (Regulation) Rules, 1974 and it shows that Hazirabegum was appointed permanently to the sanctioned post. However, Hazirabegum was not paid salary for the said post. Since the salary was not paid, the said Hazirabegum has filed this writ petition.

7. The respondents 4 and 5 have filed counter affidavits in W.P.(MD)No. 13515 of 2014, wherein it has been stated that the said Hazirabegum was appointed as B.T. Assistant (Tamil) in the place of K.Akilaparveen. But the proposal of approval of appointment was returned unapproved is not true.



W.P.(MD)Nos.13515 of 2014 and 13242 of 2017

WEB COPY

Moreover, the allegation that the Akilaparveen was ineligible to be appointed in the post of P.G. Assistant (Tamil) and hence it was also not approved is also not true. The said Hazirabegum was appointed by the then Secretary of Majilisul Ulma without consulting the School Committee. Therefore, after sending the petitioner's proposal to the 4th respondent, the educational agency filed suit in O.S.No.914 of 2012, challenging the appointment of the said Hazirabegum and the same is pending. Hence, the 4th respondent did not grant approval to Hazirabegum's appointment. At the same time, the said Secretary's period was over on 24.10.2012. In the meanwhile, management dispute arose and the official respondents vide proceedings, dated 27.05.2013, ordered for direct payment the Teachers. In the meanwhile, the said Hazirabegum left the School without any intimation to the School. Hence, the writ petition W.P.(MD)No.13515 of 2014 has become infructuous.

8. This Court has given its anxious consideration. When the writ petitions were taken up for hearing, it was submitted that that one more vacancy is arising



W.P.(MD)Nos.13515 of 2014 and 13242 of 2017

WEB COPY

due to the retirement of one Kadhar Basha. The learned Counsel appearing for the School submitted that in the said vacancy, Hazirabegum's candidature will be considered and she will be appointed in the said post. The learned Counsel appearing for the petitioner in W.P.(MD)No.13242 of 2017 submitted that she is an aspiring candidate for the P.G. Assistant post. However, the School has decided to accommodate Hazirabegum, since Akilaparveen is continuing in the post of B.T. Assistant all these years.

9. Since the School is a minority institution, this Court has very limited power in interfering in the internal affairs of the school management. Since the School had decided to take both the candidates, one as a future candidate and other as a continuing candidate, there is no issue for adjudication at all. Let the status quo be maintained.

10. The said Akilaparveen is receiving salary for B.T. Assistant. Therefore, this Court is not interfering in Akilaparveen's appointment. The said Hazirabegum



W.P.(MD)Nos.13515 of 2014 and 13242 of 2017

WEB COPY

had received salary for the period she had worked and she will be accommodated in the future vacancy. Therefore, this Court is directing the respondents to accommodate the said Hazira Begum in future vacancy.

11. With the above said observation, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No

14.10.2022

Internet : Yes

Tmg



W.P.(MD)Nos.13515 of 2014 and 13242 of 2017

WEB COPY

To

- 1.The Director of School Education,
Chennai- 600 006.
- 2.The Joint Director (Higher Secondary Education),
Diretorate of School Educaion,
Chennai - 600 006.
- 3.The Chief Educational Officer,
Thiruchirappalli-620 008.
- 4.The District Educational Officer,
Thiruchirappali-620 001.
- 5.The District Educational Officer,
Office of District Educational Officer,
Trichy – 1.



WEB COPY



W.P.(MD)Nos.13515 of 2014 and 13242 of 2017

S.SRIMATHY, J

Tmg

W.P.(MD)Nos.13515 of 2014 and 13242 of 2017

14.10.2022