



WP(MD)No.20402 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **30.06.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.20402 of 2021
and
W.M.P(MD)No.17053 of 2021

A.Thamaraiselvi

... Petitioner

/vs./

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

2.The District Educational Officer,
Sankarankovil, Tenkasi District.

3.Rayagiri Hindu Nadar Uravinmurai,
Thiru SI.BA.Sivanthiathithanar Higher Secondary School,
Represented by its Secretary,
Rayagiri, Sivagiri Taluk,
Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to impugned order in Na.Ka.No.2692/A2/2021, dated 29.09.2021 of the first respondent and the consequential impugned order in Na.Ka.No.3790/A3/2019, dated 27.10.2021 of the second respondent and quash the same and consequently direct the respondents 1 and 2 herein to approve the appointment of petitioner as P.G.Assistant (Chemistry) in the third respondent School with effect from 30.08.2019 with all consequential monetary benefits.



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For Petitioner : Mr.T.Pon Ramkumar
For R-1 & R-2 : Mr.S.Shaji Bino
Special Government Pleader
For R-3 : No appearance

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 and 2.

2. The third respondent herein is a Non Minority Aided Institution. On the request of the third respondent, the first respondent had granted permission to fill up the post of PG Assistant through his order, dated 26.07.2019. Pursuant to such permission, the third respondent had appointed the petitioner to the post of PG Assistant on 30.08.2019 and on the same day a proposal has been sent for approval of the appointment. The first respondent had rejected the proposal, by stating that unless the conditions laid down by the Hon'ble Division Bench of this Court in the case of *The Secretary to Government, Government of Tamil Nadu, School Education Department and Others Vs. Iruthaya Amali and Another* in *W.A(MD)No.76 of 2019 and batch*, are complied with, an approval cannot be granted. There is no such pre-condition laid down by the Hon'ble Division Bench



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in ***Iruthaya Amali's case*** cited supra.

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3. The only condition touching upon a ban, is on fresh appointments, which is in paragraph 148 sub para (u), wherein the Hon'ble Division Bench was of the view that till the excess teaching staffs are identified, no recruitment shall be made by the Government or the Educational Department for the purpose of appointment of teachers under various categories. Apparently, the Hon'ble Division Bench refers to fresh appointments only and does not touch upon appointments that had already been made and where approvals are required to be granted. Thus, the reason assigned in the impugned order that the conditions laid down by the Hon'ble Division Bench in ***Iruthaya Amali's case*** has to be complied with as a pre-requirement for the grant of approval of an appointment already made, is baseless and un-sustainable.

4. Though it is stated that the Hon'ble Division Bench's order in ***Iruthaya Amali's case*** has been challenged in SLP, the Hon'ble Supreme Court has declined to stay the order except para 148 (i) alone (*as reported in 2021 SCC Online Mad 1285*), which portion does not relate to issue involved here. Thus, there are no impediments for the respondent to process the proposals sent by the



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school, seeking approval of the appointment.

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5. In the light of the above findings, the impugned order in Na.Ka.No. 2692/A2/2021, dated 29.09.2021 passed by the first respondent and the consequential impugned order in Na.Ka.No.3790/A3/2019, dated 27.10.2021 passed by the second respondent, are hereby quashed. Consequently, the third respondent is directed to re-submit the proposal to the first respondent herein and on receipt of such re-submission of the proposal, the first respondent herein shall forthwith pass appropriate orders, approving the petitioner's appointment as a Post Graduate Assistant, with effect from 30.08.2019. Such orders or approval shall be passed at least within a period of four (4) weeks from the date of receipt of the re-submission of the proposal.

6.This writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes / No
btr/TM



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M.S.RAMESH, J.

btr/TM

Order made in
W.P.(MD)No.20402 of 2021

Dated:
30.06.2022