



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.04.2022

PRONOUNCED ON : 02.06.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No7510 of 2016

and W.P(MD) .No.4336 of 2018

and

W.M.P(MD) .No.6294 of 2016

and W.M.P(MD) .No.4446 of 2018

W.P(MD) .No.7510 of 2016

S.Daisy Rani

... Petitioner

Vs.

1.The Chief Educational Officer,
Thanjavur.

2.The District Educational Officer,
Thanjavur.

3.The Correspondent,
Sacred Heart Girls Higher Secondary School,
Thanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of discharge issued by the third respondent dated 15.03.2016 and quash the same and consequently direct the respondents to reinstate the petitioner in service as P.G.Assistant (English) in the third respondent school with all consequential benefits.

For Petitioner : Mr.M.Pitchaimuthu
For R1 & R2 : Mr.V.Omprakash
Government Advocate (Civil side)

For R3 : Mr.P.Muthuvel
for M/s.Isaac Chambers

W.P(MD) .No.4336 of 2018

The Correspondent,
Sacred Heart Girls Higher Secondary School,
Thanjavur, Thanjavur District.

... Petitioner

-Vs-

1.The Chief Educational Officer,
Thanjavur



2.The District Educational Officer,
Thanjavur.

3.S.Daisy Rani

... Respondents in both petitions

(3rd respondent is impleaded vide order
dated 02.06.2022 made in W.M.P(MD) No.7240 of 2018)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the second respondent District Educational Officer to approve forthwith the appointment of S.Jacqueline as PG Assistant English in the petitioner's school w.e.f 01.06.2016 and disburse the grant-in-aide towards her salary and allowance w.e.f the said date.
(prayer amended vide Court order dated 28.03.2018
in W.M.P(MD).No.6273 of 2018)

For Petitioner : Mr.P.Muthuvel
for M/s/Isaac Chambers

For R1 and R2 : Mr.V.Omprakash
Government Advocate (Civil side)

For R3 : Mr.M.Pitchai Muthu

ORDER

W.P. (MD) No.7510 of 2016 is filed to quash the impugned order dated 15.03.2016 and consequently, to direct the respondents to reinstate the petitioner in service as P.G. Assistant (English) in the third respondent school with all consequential benefits.

2. W.P. (MD) No.4336 of 2018 is filed to direct the second respondent District Educational Officer to approve forthwith the appointment of S. Jacqueline as PG Assistant (English) in the petitioner's school w.e.f 01.06.2016 and disburse the grant-in-aid towards her salary and allowance w.e.f. the said date.

3. The brief facts of the case in WP(MD) No.7510 of 2016 are as follows:

(i) The petitioner namely, S.Daisy Rani was possessing the qualification of M.A. B.Ed and having experience for more than 10 years. The petitioner's home town is Thanjavur and after marriage, the petitioner settled at Pudukkottai. The third respondent school is an aided minority institution. Before marriage, the petitioner was working in Thanjavur District. The petitioner was called upon to attend the interview for the post of P.G. Assistant (English) in the third respondent school. Due to the retirement of one Mrs.Selvarani,



the post of P.G. Assistant (English) fell vacant, the petitioner was selected and appointed as P.G. Assistant (English) on 01.04.2015. Since it is sanctioned post, there was no impediment in granting approval. The petitioner shifted her family from Pudukkottai District to Thanjavur. At the time of reporting duty on 01.04.2015, the petitioner was five months pregnant.

(ii) After appointment, the Management forwarded the proposal to the second respondent to approve the appointment. Thereafter, the authorities had approved and paid salary from 01.08.2015 onwards. After appointment, the petitioner was called upon to sign a letter which read as if the petitioner's appointment is a contractual appointment and the petitioner was also asked to sign as if she received it on 01.04.2015.

(iii) The contention of the petitioner is that the respondent management had clarified that the said letter was obtained formally. Believing the words of the correspondent namely, Sr.Cecilia Arokiyasamy, the petitioner signed the letter. The petitioner appointment was made in the regular sanctioned vacancy. In the month of January 2016, the petitioner was paid with arrears of salary. The service Register has also been opened. Since the third respondent school is a minority and aided institution, all the orders and the service register are with the custody of the third respondent. After completing the maternity leave, the petitioner joined duty on 16.02.2016 and to shock of the petitioner on 15.03.2016 the third respondent called upon the petitioner to receive the order of discharge. The petitioner was compelled to sign in the order. The third respondent did not state any reason to issue the order of discharge. In the said order, the respondents simply stated that during the probation, the petitioner service is not satisfactory and hence discharged from service. Aggrieved over the same, the present writ petition has been filed.

4..The brief facts of the case in WP(MD) No.4336 of 2018 are as follows:-

Pending the writ petition in WP(MD) No.7510 of 2016, in the post where the said S.Daisy Rani was discharged from the service, the school has appointed one, S.Jacqueline. Since the said S.Jacqueline's appointment was not approved, the school has come forward with the writ petition in WP(MD) No.4336 of 2018. According to the school, the post of PG Assistant (English) fell vacant on 16.03.2016 on account of termination of the previous incumbent namely, S.Daisy Rani on 15.03.2016. The school submitted a proposal on 27.07.2017 for approving the appointment and disbursement of grant-in-aid towards her salary. The District Educational Officer returned the proposal vide proceeding in Na.Ka.No.1632/a3/2016 dated 08.01.2018 declining to approve the appointment as the previous incumbent namely S.Daisy Rani had challenged her termination order in WP(MD) No.7510 of 2016.



(ii) The school submitted a detailed reply on 25.01.2018 explaining that the previous incumbent was relieved during the period of her probation as her service was not satisfied. As there was no interim orders and the students appearing for the public exams were put into severe hardship, without PG Assistant in English and hence, the school was compelled to fill the vacancy with a qualified teacher from 01.06.2017. The said appointment was made in the interest of students. The said Teacher S. Jacqueline is working without any salary. So the school requested the District Educational Officer to approve the appointment and disburse the grant-in-aid. As far as the previous incumbent namely Tmt. Daissy Rani, she was appointed in the school as a probationary PG Assistant (English) on 01.04.2015 and she was handling the classes at the Higher Secondary level. The management has been closely monitoring her service and assessing her performance in teaching and sincerity in work. After an overall appraisal, the management took the considered decision not to extend her employment beyond one year i.e., after 15.03.2016. Hence, the said Daisy Rani was discharged from her service. The order of discharge is simpliciter and the same was handed over to her on 15.03.2016.

5.The school has filed a counter in WP(MD) No.7510 of 2016 wherein it is stated that the petitioner did not show any sign of improvement and did not take any efforts to fare better in her performance. The management waited and watched for over one month again. The regular assessment by way of sharing with the Headmistress and with the Class Teachers and the periodical interaction with the students and their parents brought forth only negative reports. The repeated instructions put into her ears did not evoke any positive response. Therefore, the school had decided to discharge the said S.Daisy Rani and the order of discharge only simpliciter for not satisfactory performance during the probation period. Hence, the school prayed to dismiss the writ petition in W.P. (MD) No.7510 of 2016 filed by the Daisy Rani and prayed to allow the writ petition filed by the management.

6. Heard Mr. M. Pitchaimuthu, the learned counsel appearing for the petitioner, Mr. V. Omprakash Government Advocate (Civil side), the learned counsel appearing for the official respondents and Mr. P. Muthuvel for M/s. Isaac Chambers for the school and perused the records.

7. It is seen from the records that the said Daisy Rani was appointed on 01.04.2015 and she went for maternity leave from 18.08.2015 to 13.02.2015 and she has joined duty on 15.02.2016 and relieved on 15.03.2016. The period of probation is two years in the Government Departments. The period of probation period in the private schools is as stated in the regulations formulated by the school and if not formulated then the two years ought to be taken for consideration. In the present case, the said Daisy Rani had



for one month. It is an admitted fact that while the Daisy Rani was joining the school, she was five months pregnant. Since she was under maternity leave and she was in the process of giving birth to a child, there will not be any full concentration during this period. The said Daisy Rani ought to be granted one more opportunity to prove her skill. The decision of the third respondent cannot be questioned, since the third respondent is a minority institution and any decision of the minority institution cannot be questioned, since it comes within the domain of their exclusive administration. The constitution has also granted the minority status and their administration cannot be questioned in any Court of law. In spite of the same, the said Daisy Rani ought to be granted an opportunity, since she was under maternity leave. In order to reconcile these factors, this Court is of the considered opinion that the Daisy Rani should be granted an opportunity, even though the discharge is simpliciter.

8. In view of the above, the impugned discharge order, dated 15.03.2016 passed by the third respondent is set aside and this Court directs the respondents to reinstate the petitioner in service as PG Assistant (English). The respondents shall consider the reinstatement of the Daisy Rani within a period of four weeks from the date of receipt of a copy of this order.

9. As far as the writ petition in W.P. (MD) No.4336 of 2018 is concerned, the new appointment of S.Jacqueline cannot be approved, since this Court has already held that the appointment of Daisy Rani ought to be reconsidered.

10. In the result, the writ petition in W.P. (MD) No.7510 of 2016 is allowed and the writ petition in W.P. (MD) No.4336 of 2018 is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

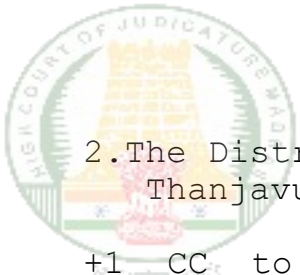
/ /2022

Sub Assistant Registrar(CS)

cp

To

1.The Chief Educational Officer,
Thanjavur.



2.The District Educational Officer,
Thanjavur.

+1 CC to M/s.CIBI CHAKRABORTHY, Advocate (SR-20420[F] dated
22/04/2022)

+1 CC to M/s.SPL.GP (SR-24289[F] dated 03/06/2022)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-24316[F] dated 06/06/2022
)

**order made in
W.P. (MD) No7510 of 2016
and W.P (MD) .No.4336 of 2018
Dated:
02.06.2022**

_SS (21/06/2022) 6P 6C