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W.P.No.5505 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.03.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. No.5505 of 2015

R.K.Karolin, B.Sc., B.Ed.,
B.T.Assistant (Chemistry)
Government High School
Puliyur, Pudukottai District.

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep.by its Secretary
Education Department
Secretariat, Chennai – 9.

2.The Director of School Education
College Road, Chennai -6.

3.The Chief Education Officer
Sivagangai.

4.The District Education Officer
Devakottai.

5.St.Mary's Girls Higher Secondary School
Rep.by the Correspondent
Devakottai – 630 302.
Sivagangai District.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned proceedings passed by the 4th respondent vide O.Mu.No.6494/Aa4/12 dated 03.12.2012 and quash the same and direct the 2nd respondent to approve the appointment of the petitioner w.e.f 11.08.1997, as Secondary Grade Teacher with all consequential benefits.

For Petitioner : Mr.S.N.Ravichandran
For Respondents : Mr.R.Neelakandan, AAG
assisted by
Mrs.S.Mythreye Chandru, SGP
for RR1 to 4
Mr.P.Godson Swaminath for R5

ORDER

This Writ Petition has been filed challenging the impugned proceedings passed by the 4th respondent vide O.Mu.No.6494/Aa4/12 dated 03.12.2012, whereby the petitioner's appointment to the post of Secondary Grade Teacher, with effect from 11.08.1997 was rejected.

2.The petitioner herein was appointed as a Secondary Grade Teacher in the 5th respondent's School in the sanctioned post by an order dated 11.08.1997. To approve the appointment of the petitioner, 5th respondent



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submitted the proposal to the 4th respondent, along with necessary documents. However, the proposal was returned by the 4th respondent, on the ground that appointment of highly qualified person in the Secondary Grade Post, is contrary to the G.O.Ms.No.394 dated 12.09.1997. Challenging the said G.O., a batch of writ petitions filed before this Court and the same was dismissed by a common order dated 19.05.1998. As against which, appeal was preferred in W.A.Nos.991 to 998 of 1998 and the same was disposed of by an order dated 29.06.2001, holding that the appointment of the persons from 11.07.1995 to 19.05.1998, shall be approved, on condition that they should undergo one month child psychology training. Accordingly, the government issued G.O.Ms.No.155 dated 03.10.2002 and pursuant to the said G.O., the petitioner herein completed her training from 02.05.2003 to 31.05.2003 and on completion of said training, petitioner's appointment was approved with effect from 02.06.2003 by the department. The petitioner now seeking a direction to the respondents 1 to 4 to approve her appointment with effect from the date of her initial appointment, i.e., from 11.08.1997.



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3.Heard the learned counsel for the petitioner and the learned

Additional Advocate General appearing for the respondents 1 to 4.

4.The issue involved in the present writ petition, as to whether the petitioner is entitled to seek for approval of her appointment from the date of her original appointment has been dealt with in various decisions of this Court. In one such decision, in the case of ***Varadharajan Vs. Director of School Education and others***, passed in W.P.(MD)No.9072 of 2005, dated 19.12.2007, the learned Single Judge of this Court has held that the approval of appointment be granted with effect from the date of initial appointment and not from the date on which the concerned Teacher had completed the Child Psychology Training. This decision in the writ petition came to be confirmed by the Honourable Division Bench of this Court in Writ Appeal in ***W.A. (MD).No.SR11055 of 2009, dated 01.10.2009***, as well as by the Honourable Supreme Court in ***SLP (Civil) No.0250012 and 012151 of 2012, dated 28.07.2012***.



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5.Further, the learned Additional Advocate General appearing for the respondents 1 to 4 would point out that though the orders passed in W.P.(MD).No.9072 of 2005 dated 19.12.2007 has been implemented by the respondent – Department, it is made clear that the order shall not be taken as a precedent to any other matter.

6.Admittedly, the 4th respondent ought to have approved the appointment of the petitioner from the date of her initial appointment from 11.08.1997 irrespective of the fact that she underwent child psychology training during May 2003. Relying upon the order passed in W.P.No.9072 of 2005, dated 19.12.2007, the learned counsel for the petitioner submitted that in similar circumstances, this Court directed the authorities to regularise the services of the petitioner therein from the date of his appointment and also declared to be entitled to all consequential benefits.

7.The aforesaid decision rendered by the learned Single Judge of this Court in the aforesaid writ petition, confirmed by the Hon'ble First Bench of the Madurai Bench of Madras High Court, is squarely applicable to the case



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of the petitioner herein also.

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8. Accordingly, the order impugned in this writ petition is set aside and the writ petition stands allowed, with a direction to the 4th respondent to pass appropriate orders, approving the petitioner's appointment from the date of her initial appointment i.e., from 11.08.1997 with all consequential benefits to her. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs.

01.03.2023

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

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To

1. The Secretary

State of Tamil Nadu

Education Department

Secretariat, Chennai – 9.

2. The Director of School Education

College Road, Chennai -6.

3. The Chief Education Officer

Sivagangai.

4. The District Education Officer

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