



W.P. No.43499 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

23.03.2023

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THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.43499 of 2016

and

W.M.P.Nos.37326 of 2016 and 8508 of 2017

M. Sathya

... Petitioner

Vs.

1. The Joint Director of School Education,
(Secondary Education), College Road, Chennai -6

2. The Chief Educational Officer,
Erode District, Erode

3. The District Educational Officer,
Gobichettypalayam, Erode District.

4. The Secretary,
Sakthi Higher Secondary School,
Nachimuthupuram, Sakthi Nagar,
Erode District – 638 315.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorafied Mandamus, calling for the



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records relating to rejection order of approval by the 3rd respondent in O.Mu.No6518/A2/2015 dated nil..03.2016 and the appeal order of the first Respondent in O.Mu.No.045365/T1/E4/2016 dated nil.09.2016 and quash the same, consequently direct the respondents 1 and 3 to approve the petitioner's appointment as a Physical Education Teacher with effect from 10.12.2015.

For Petitioner : M/s. K. Sathish Kumar
For Respondents : Mr. K. Ramesh Kumar
Government Pleader

ORDER

This writ petition is filed praying for a writ of Certiorafied Mandamus, calling for the records relating to rejection order of approval by the 3rd respondent in O.Mu.No6518/A2/2015 dated nil..03.2016 and the appeal order of the first Respondent in O.Mu.No.045365/T1/E4/2016 dted nil.09.2016 and quash the same, consequently direct the respondents 1 and 3 to approve the petitioner's appointment as a Physical Education Teacher with effect from 10.12.2015.

2. The facts of the case is that the 4th Respondent/Sakthi Higher Secondary School sought permission from the second and third



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Respondents to fill up the post of Physical Education Director and invited application vide paper publication as well as putting in notice board.

Thereafter, the petitioner applied to the said post and she got selected and appointed on 10.12.2015 in the promotional vacancy of one A.P.Poongodi.

Thereafter, the 4th Respondent/Sakthi Higher Secondary School sent a proposal for approval of the petitioner's appointment to the third respondent

who inturn passed the order in O.Mu.6518/A2/2015 dated nil.03.2016 rejecting the approval of the appointment made to the petitioner for the

reason that the vacancy of K.Mahesh Kumar Physical Education Teacher was approved by G.O.Ms.No.241 of 2007 treating his appointment under

Serial No.1 general turn and the petitioner appointment shall not be Serial No.1 as per roaster. Challenging the same, the 4th Respondent/Sakthi Higher

Secondary School submitted a representation on 18.04.2016 and the same was rejected by the 3rd respondent vide order dated 31.05.2016.

O.Mu.No.1650/A2/2016. Aggrieved over the same, the petitioner preferred an appeal before the first respondent and the same was rejected vide order

O.Mu.No.045365/T1/E4/2016 dated 30.09.2016. Hence the writ petitioner has come up with this writ petition to quash the rejection order of approval



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by the 3rd respondent in O.Mu.No.6518/A2/2015 dated nil..03.2016 and the appeal order of the first Respondent in O.Mu.No.045365/T1/E4/2016 dated nil.09.2016

3. It was submitted by the petitioner that pending writ petition the 3rd respondent in Na.Ka.No.6948/A2/2016 dated 07.08.2017 informed that the the petitioner's appointment has been temporarily approved subject to the outcome of the result in the said writ petition. Hence he prays this Court to allow this petition.

4. The learned Government Pleader appearing for the respondents submitted that the appointment of the said K. Mahesh Kumar was granted by adopting the G.O.Ms.No.241 of 2007 dated 29.10.2007 in General turn Serial No.1 in 21.04.2008. Hence the next vacancy came on 08.10.2021 in that roaster Sl.No.2 will come under SC Arunthathiar only. Therefore, the appointment of Tmt.M.Sathya made in General Turn Serial No.1 is incorrect as per Government Order.



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5. Heard both sides and perused the materials available on record.

6. On going through the G.O.Ms.No.241 of 2007 dated 29.10.2007 which is the subject matter of this writ petition, it is made clear there is a direction that the 200 point roaster shall be given effect only 15.09.2007 and the relevant portion is extracted hereunder;

*“In pursuance of the above ordinance, the Government direct that the existing 100 point roaster prescribed in Schedule – III to the General Rules for Tamil Nadu State and Subordinate Services to be revised into 200 point roaster as in the annexure to this Government Order so as to provide reservation for the Backward class Christians and the Backward Class Muslims at three and on-half percent and three and one-half percent respectively, within the thirty percent reservation available for Backward Classes. **The Government also direct that the above 200 point roaster shall be given effect from 15.09.2007** and the vacancies arising on and from September 2007 shall be filled up as per the 200 point roaster and all the selection appointment shall be stated afresh from serial number one of the 200 point roaster with effect on and from the said date. “*

7. In view of the above it is made clear the 200 point roaster shall be given effect from 15.09.2007, whereas the appointment of the said



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K.Mahesh Kumar was made in the vacancy which arose on 20.12.2006 and there is a violation by the Respondents while applying the said Government Order. Further in the place of vacancy created by one S.Murugan, the 3rd respondent erroneously approved the said Mahesh Kumar by applying G.O.Ms.No.241 dated 29.10.2007 under mistaken consideration. The said G.O is applicable for the vacancy arose on or after 15.09.2007 and it is not applicable for the vacancy arose prior to the said cut of date, viz., 15.09.2007. The petitioner's appointment was made only based on the G.O.No.241 and as per the same, first 200 seats in which the first appointment shall be a general category and the petitioner being general category persons is entitled to the appointed in the said vacancy available, which is appropriately filled. The petitioner is working for one year in the sanctioned post though she is qualified, she has not been selected. The petitioner is entitled for appointment as physical Education Teacher.

8.Considering the facts of the case and the 3rd respondent in Na.Ka.No.6948/A2/2016 dated 07.08.2017 approved the appointment of the petitioner and stated that the appointment is subject to the outcome of the



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result in the said writ petition, the present writ petition is hereby allowed and this Court directs the respondents to approve the appointment made to the petitioner with effect from 10.12.2015 and pass orders appropriately regarding her fixing of salary also . Accordingly, this writ petition is allowed. No order as to costs. Consequently connected miscellaneous petition are closed.

23.03.2023

Speaking (or) Non Speaking Order

Index : Yes/ No

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