



W.M.P.No.2766 of 2023

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in W.P.No.22541 of 2017

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DR. ANITA SUMANTH,J.

The Secretary of the Church Board has filed this petition to recall the order dated 20.3.2019 passed in W.P.No.22541 of 2017.

2. By the said order dated 20.3.2019, the writ petition filed by one Mr.P.Aldrin Selvapandiyan challenging an order passed by the fourth respondent i.e., District Educational Officer, Virudachalam, dated 08.02.2017, whereunder one post of B.T. Assistant in English was declared as surplus, was disposed of on the basis of a memo filed by the fifth respondent, the Correspondent of Danish Mission Higher Secondary School. Paragraphs 3 to 5 of the said order, wherein the memo was extracted and directions issued based on that memo are set out below:-

"3. Without going into the controversy raised in the present case reference may be made to memo filed by the 5th respondent to the following effect:

'1.The 5th respondent submits that the writ petitioner has filed the above writ petition before this Hon'ble Court to issue a Writ of Certiorarified Mandamus call for the impugned proceedings of the 4th respondent in Na.Ka.No.3812/A3/2016-4 dated 08.02.2017 and quash the same to the limited extent of declaring one post of B.T. Assistant as surplus and also seeking other consequential relief to direct the respondents to approve the appointment of the petitioner herein.

2. The 5th respondent submits that due to the retirement of one Ms.Vinoliya Rajakumari from



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the post of B.T.Assistant (English) there was a vacancy in the 5th respondent school for the post of B.T. Assistant (English). As per proceedings of the Secretary, Church Board of the Arcot Lutheran Church vide in S/201/2016-2019 dated 14.11.2016 the Writ Petitioner was appointed as B.T. Assistant (English) with effect from the forenoon of 16.11.2016 and proceedings of Secretary, Church Board of the Arcot Lutheran Church vide in S/201/2016-2019 dated 14.11.2016 was properly communicated to the 3rd and 4th respondent. Pursuant to the above proceedings the writ petitioner has joined duty in the 5th respondent school as B.T. Assistant (English) in the forenoon of 16.11.2016. It is pertinent to note that the Writ petitioner is working in the 5th respondent school without getting any salary from the date of appointment to till date.

3. The 5th respondent submits that during pendency of the above writ petition one D.Chandra Secondary Grade Teacher was retired from the 5th respondent school with effect from 31.05.2018 and due to her retirement, there is a vacancy of secondary Grade Teacher in the 5th respondent school and the same is kept vacant. Further the 5th respondent has no objection in accommodating the petitioner in the vacant post of Secondary Grade teacher in the 5th respondent school and also undertakes to take all necessary steps for regularizing the service of the petitioner before the concerned authorities.'

4. In the light of the memo wherein the 5th respondent has expressed consent in accommodating the petitioner in the post of Secondary Grade Teacher and undertakes to take all necessary steps for regularising his service, nothing further survives in this Writ petition per se. The memo filed by the 5th respondent is recorded.

5. The petitioner shall take charge with immediate effect. Necessary orders for regularising his appointment shall be passed by the 5th respondent within a period of one (1) week from the date on which the petitioner joins the post."



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3. The Secretary of the Church Board, who has filed this miscellaneous petition to recall the aforesaid order, submits that it was inappropriate and wrong on the part of the Correspondent to have filed a memo, on the basis of which an order had been passed on 20.03.2019 in the writ petition. The Correspondent, according to the Secretary of Church Board, is not a proper entity to decide the matter of appointments or to have made any statement with regard to the posts and the appropriate persons to fill them. It is further submitted that the Correspondent, who had filed a memo, has been terminated immediately upon the Board coming to know of the above derelictions in duty.

4. In light of the aforesaid facts, I am of the view that the recall petition is liable to be allowed and order dated 20.03.2019 is recalled. Consequently, W.P.No.22541 of 2017 would stand restored to the file of this Court for de novo hearing before the appropriate Bench.

13.3.2023

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