



W.P.Nos.32030 of 2017 & 2418 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.Nos.32030 of 2017 & 2418 of 2018

and

W.M.P.Nos. 35189 of 2017, 2930 & 2931 of 2018

W.P.No.32030 of 2017

G.Shamala Ruby

.. Petitioner

VS

1.The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.

2.The Chief Educational Officer,
Chengalpattu District.

3.The District Educational Officer,
Chengalpattu, Chengalpattu District.

4.CSI Alison Cassie Girls Higher Secondary School,
Rep. By its Correspondent,
Mrs.J.Chrislet Flowercy,
CSM Compound,
Chengalpattu – 603 001.

.. Respondents

W.P.No.2418 of 2018

CSI Alison Cassie Girls Higher Secondary School,
Rep. By its Correspondent,
Mrs.J.Chrislet Flowercy,
CSM Compound,
Chengalpattu – 603 001.

.. Petitioner

VS



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1.The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.

2.The Chief Educational Officer,
Kanchipuram District.

3.The District Educational Officer,
Chengalpattu, Chengalpattu District.

.. Respondents

Prayer in W.P.No.32030 of 2017 : Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to sanction one post of B.T. Assistant (Science) based upon the staff fixation to the fourth respondent school vide proceedings of the third respondent in Na.Ka.No.5325/A5/2017, dated 09.10.2017 by taking into account each section is entitled to one teacher as laid down by the Full Bench of this Court 2006 (5) CTC 385 and accordingly approve the appointment of the petitioner with effect from 09.10.2017.

Prayer in W.P.No. 2418 of 2018 : Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records on the file of the 2nd respondent herein bearing ref. Na.Ka.No.5325/Aa5/2017 dated 09.10.2017 and quash the same in so far as fixation of teachers strength as 11 and consequently direct the respondents to grant one additional post of B.T. Assistant (Science) in consonance with the judgment of the Hon'ble Full Bench of this Court in W.A(MD) No.313 of 2006 dated 04.11.2006 and accordingly approve the appointment of one Teacher by name G.Shamala Ruby as B.T. Assistant (Science) with effect from 09.10.2017.



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For Petitioner : Ms.Dakshayani Reddy,
Senior Counsel
for Ms.S.Suneetha
(in both writ petitions)

For Respondents : Mr.S.Ravikumar
Special Government Pleader
for R1 to R3
(in both writ petitions)

COMMON ORDER

Common order can be passed in both the writ petitions since the petitioners are agitating the same issue.

2. W.P.No.32030 of 2017 had been filed by G.Shamala Ruby, a teacher, who is working as B.T. Assistant in Science in the 4th respondent / CSI Alison Cassie Girls Higher Secondary School.

3. For good measure, the said school, had also filed W.P.No.2418 of 2018, practically seeking the same relief as the petitioner in W.P.No.32030 of 2017 had sought.

4. Let me reduce the facts as stated in W.P.No.32030 of 2017, since the petitioner therein had been directly affected. That writ petition had been filed in the nature of a mandamus seeking a direction against the respondents primarily, the District Educational Officer at Chengalpattu to sanction one post of B.T. Assistant



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(Science) on the basis of staff fixation to the fourth respondent / CSI Alison Cassie Girls Higher Secondary School, consequent to proceedings of the third respondent dated 09.10.2017, and by taking into consideration the dictum laid down by the Full Bench of this Court in the case of *Director of Elementary Education v S.Vigila* [2006 5 CTC 385]. In short, the dictum laid down was that every section in a school should have one teacher. The ratio was therefore proportionately adjusted instead of a teacher for a number of students. It had to be ensured that every section in a school has atleast one teacher.

5. The petitioner seeks approval of appointment with effect from 09.10.2017. In the fourth respondent school, the sanctioned strength of the teachers was however fixed on the strength of the students. In the year 2014 – 2015, it was declared that the school was entitled to seven sanctioned posts of BT Assistant Teachers. One was declared as surplus. In the year 2015 – 2016, there was also seven sanctioned post of B.T. Assistant Teachers and again one was declared as surplus. On 31.05.2015, one teacher retired and the respondents appear to have held one post of BT Assistant Teacher as surplus.



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6. This is more like a merry-go-round.

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7. The petitioner in W.P.No.32030 of 2017 was appointed as BT Assistant in Science but it was declared by the respondents, particularly by the third respondent / District Educational Officer, that she had been appointed in a post which was not sanctioned or surplus. Therefore, the question of recognizing her services came into question.

8. The petitioner then fell back to the ratio laid down by the judgment of the Full Bench as aforementioned, and claimed that the number of teachers should be sanctioned or recognized should be only with respect or in relation to the sections which are available in a school and that if viewed from that particular manner, the petitioner herein could not be treated as surplus or that she was working in a post which would not or cannot be recognized or sanctioned.

9. In W.P.No.2418 of 2018, the school had filed an application seeking approval of the posting of G.Shamala Ruby, the petitioner in the other writ petition namely, W.P.No.32030 of 2017 as B.T. Assistant (Science). Holding that such approval cannot be



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granted, an order had been passed on 19.10.2017 by the Chief Educational Officer at Kancheepuram and questioning that order, the school had filed the writ petition.

10. Though the issues seem to be a little complicated and this Court was called upon to determine the number of posts which could be sanctioned so far as B.T. Assistant Teacher are concerned, one intervening factor had happened and, the petitioner took advantage of that particular opportunity. That was the unfortunate death of Mrs.Frolic Shanti Rani, who was a Secondary Grade Assistant and who died on 06.09.2018.

11. The petitioners in both the writ petition now seek regularization of the petitioner in W.P.No.32030 of 2017 in that post which had therefore fallen vacant.

12. Learned Special Government Pleader, however, on instructions stated that the said teacher, who unfortunately died was a Secondary Grade Teacher and the petitioner herein was B.T. Assistant and there could not be any inter change of the posts and that the therefore posting of the petitioner could never be recognized.



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13. However, this statement is countered by the learned Senior Advocate on behalf of the petitioner, who pointed out a policy decision which came into effect from 01.04.2003 which was to equalize the standards VI – VIII which were normally called as Middle Schools and the High School Classes of IX – X. The teachers were regarded as Secondary School Teachers as BT Assistants, and they were interchangeably used for taking classes for the students.

14. It is therefore contended by the learned Senior Advocate that the petitioner in W.P.No.32030 of 2017 should automatically be recognized with effect from the date of death of the unfortunate Mrs.Frolic Shanti Rani. This fact has now brought about a total turnaround of the fortune of the petitioner herein. The following facts are noted:-

(i) the petitioner in W.P.No.2418 of 2018 had already given a proposal on 24.04.2019 to recognize the petitioner in W.P.No.32030 of 2017 in the place of Mrs.Frolic Shanti Rani.

(ii) the respondents had passed an order which had been counter signed on 15.03.2019 in O.M.No.793/A2/2019 stating that they could not grant such regularization consequent to the pendency of the present writ petition.



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15. In view of exchange of aforementioned correspondences, a direction is given to respondent nos. 2 and 3 to once again re-examine the entire issue and since the petitioner in W.P.No.32030 of 2017 is seeking regularization only from the date of death of Mrs.Frolic Shanti Rani, may therefore consider regularization of the petitioner in W.P.No.32030 of 2017 in that post from that date. Necessary orders may be issued in this regard.

16. It is made clear that though the petitioner had been working as B.T. Assistant (Science) even earlier, it would be taken that she has been working in that particular post only from the date of death of aforementioned Mrs.Frolic Shanti Rani and not earlier. There cannot be any re-working of emoluments to be paid for the earlier period of work.

17. Holding as above, both the writ petitions stand disposed of. Necessary proceedings may be issued within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petitions are closed.

26.07.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm



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To

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DPI Campus, College Road,
Chennai – 600 006.
- 2.The Chief Educational Officer,
Chengalpattu District.
- 3.The Chief Educational Officer,
Kanchipuram District.
- 4.The District Educational Officer,
Chengalpattu, Chengalpattu District.



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C.V.KARTHIKEYAN,J.

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