



W.P.No.31292 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.31292 of 2023
and
W.M.P.No.30898 of 2023

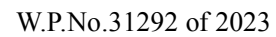
T.Udhayarani Noeline

...Petitioner

Vs

- 1.The Government of Tamil Nadu,
Rep. by the Secretary to Government,
School Education Department,
Fort St. George, Chennai – 600 009.
- 2.The Chief Educational Officer,
Salem (Rural).
- 3.The District Educational Officer,
Salem (Rural).
- 4.The Block Educational Officer,
Salem (Rural).
- 5.The Correspondent,
St. Joseph Aided Primary School,
Suramanagalam, Salem – 636 005.

...Respondents



For Petitioner : Mr.P.Rajendran

For R1 to R4 : Mr.V.P.R.Elamparithi,
Additional Government Pleader

For R5 : No Appearance

With the consent of both the parties, this Writ Petition is taken up for final disposal.

2. The 5th respondent School is an aided minority education institution. The petitioner was appointed as a Secondary Grade Teacher in the School on 31.01.2018 in the sanctioned vacancy that has arisen, owing to the promotion and transfer of a Teacher. When the School had



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sent a proposal on 13.12.2018, seeking for approval of the petitioner's appointment, the proposal was rejected through the impugned order dated 19.05.2022, by placing reliance on G.O.Ms.No.165, School Education Department, dated 17.09.2019. Challenging the rejection order, the present Writ Petition has been filed.

3. The issue as to whether an appointment that has been made prior to 17.09.2019 can be rejected, by placing reliance on G.O.Ms.No.165, which places a prohibition for fresh appointment, has already been considered in a batch of Writ Petitions before this Court, whereby it was categorically held that G.O.Ms.No.165 will only have a prospective effect and will not affect the appointments that were made prior to passing of the Government Order.

4. In a batch of Writ Petitions in W.P.Nos.3194 of 2020, etc., dated 18.04.2022, a similar case was dealt with by upholding the aforesaid ratio in the following manner:-

“9. On perusal of the judgment of the Division Bench of this Court in the aforesaid Batch



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of cases and also the G.O.Ms.No.165 issued by the School Education Department, dated 17.09.2019, both the judgment as well as G.O.Ms.No.165 are prospective in nature. The appointments made by the School Management in the instant writ petitions are prior to the issuance of G.O.Ms.No.165 dated 17.09.2019 and proposals for the said appointment were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.09.2019. Therefore, there is no legal impediments for the respondents to accord approval to the appointment made by the School Management in the instant writ petitions.

10. Having regard to the rival submissions of the parties, taking note of the judgment passed by the Division Bench of this Court in a Batch of Writ Appeals in W.A.(MD)No.76 of 2019, etc., G.O.Ms.No.165 issued by the School Education Department, dated 17.09.2019 will not prohibit the educational authorities to approve the appointment made by the School Management in the instant writ petitions since the proposals for approval of appointment made by the School Management were forwarded to the educational authorities prior to



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the issuance of G.O.Ms.No.165 dated 17.09.2019. Therefore, this Court is of the view that the respondent department without considering the G.O.Ms.No.165 dated 17.09.2019 in proper prospective and passed the impugned order rejecting the proposals submitted by the School Management. Therefore, the impugned orders passed by the respondent department are liable to be quashed.

11. Accordingly, the impugned orders passed by the respondent department in the aforesaid writ petitions are quashed and remitted to the Chief Educational Officers/District Educational Officers concerned, to consider and pass an order of approval of the appointment made by the School Management, provided the said proposals satisfies all the norms prescribed for such appointments and as per the Rules, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of a copy of the order.”

5. The aforesaid extract is self explanatory. Thus, when the petitioner's appointment itself was on 31.01.2018, which is prior to



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passing of G.O.Ms.No.165, dated 17.09.2019, the reasons assigned by the 3rd respondent in rejecting the School's proposal, seeking for approval on the basis of G.O.Ms.No.165, cannot be sustained.

6. In the light of the above observations, the impugned order dated 17.09.2019 is quashed. Consequently, there shall be a direction to the respondents herein to forthwith pass orders on the proposal sent by the 5th respondent School dated 13.12.2018 and grant approval to the appointment of the petitioner as a Secondary Grade Teacher, with effect from 01.02.2018 and sanction the grant-in-aid to the 5th respondent School. Such orders shall be passed atleast within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes
Neutral Citation:Yes
Speaking order
hvk



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To

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M.S.RAMESH,J.

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