



W.P.(MD).No.283 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.283 of 2021

and

W.M.P(MD)Nos.221 & 222 of 2021

Angeline Beraca Chirstobell

... Petitioner

Vs.

1.The Secretary to Government,
Department of School Education,
Tamil Nadu Secretariat,
St. George Fort,
Chennai.

2.The Director of School Education,
Department of School Education,
DPI Compound,
Chennai.

3.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

4.The District Educational Officer,
Tirunelveli Educational District,
Tirunelveli.

5.The Correspondent,
Schaffter Higher Secondary School,
Tirunelveli,
Tirunelveli District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records in respect of the order passed by the fourth respondent in Na.Ka.No.3398/A1/2020, dated 10.08.2020 and quash the same and consequently direct the respondents 3 and 4 to approve the appointment of the petitioner as Tamil Pandit in the fifth respondent School from the date of appointment ie., from 12.08.2008 and confer all service and monetary benefits.

For Petitioner	: Mr.S.Chellapandian
For RR 1 to 4	: Mr.N.Ramesh Arumugam Government Advocate
For R – 5	: Mr.Vinoharan for G.Prabhu Rajadurai

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the order passed by the fourth respondent, dated 10.08.2020 and consequently to direct the respondents 3 and 4 to approve the appointment of the petitioner as Tamil Pandit in the fifth respondent School from the date of appointment ie., from 12.08.2008 and confer all service and monetary benefits.



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2.Heard Mr.S.Chellapandian, learned counsel appearing for the petitioner, Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondents 1 to 4 and Mr.Vinoharan, learned counsel for Mr.G.Prabhu Rajadurai, learned counsel appearing for the fifth respondent and perused the materials available on record.

3.The petitioner was appointed as a BT Assistant (Tamil) in the fifth respondent school in a sanctioned vacancy on 12.08.2008 in the place of one Dharmaraj Daniel, who had retired from his service on 31.05.2008.

4.The fifth respondent school is managed by a corporate minority Management namely CSI Diocese, Tirunelveli. On the retirement of Dharmaraj Daniel on 31.05.2008, even before the petitioner was appointed, another candidate namely Suganthi Selvakumari was appointed by an incompetent authority to the said post. In view of the said two appointments, the official respondents withheld the grant in aid for the said B.T Assistant post in the year 2009. As a result of which, the petitioner is still working in the said post without aided salary. The petitioner's proposal was forwarded to



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the third respondent vide letter dated 23.04.2009 and the same was returned by the fourth respondent. In the meantime, the said Suganthi Selvakumari, who was appointed by the incompetent authority, was ousted from the post by the competent management vide proceedings dated 01.09.2008. Challenging the said order of ousting, she filed a Writ Petition before this Court in W.P(MD)No.8121 of 2008, in which, this Court upheld the ousting order and dismissed the Writ Petition on 28.05.2009. Under such circumstances, the petitioner's proposal was once again forwarded on 18.07.2009 to the fourth respondent for approval. However, the same was returned by the fourth respondent vide proceedings, dated 12.08.2009, directing to verify whether any appeal has been preferred by Suganthi Selvakumari as against the writ order, dated 28.05.2009. In the meanwhile, Suganthi Selvakumari filed a writ appeal in W.A(MD)No.375 of 2009, in which, the Hon'ble Division Bench of this Court, by Judgment, dated 26.03.2010 set aside the order of the learned Single Judge as well as ousting order passed by the fifth respondent. Challenging the same, a Special Leave Petition was preferred by the fifth respondent before the Hon'ble Apex Court as against the order passed in the Writ Appeal, in which, the Hon'ble Apex Court granted an order of status quo on 14.07.2010. In view of the same, the petitioner continued in the said post without getting any



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grant in aid salary. During the pendency of the said Special Leave Petition before the Hon'ble Supreme Court, the incumbent Dharmaraj Daniel's retirement proposal was approved and he was relieved from service with all service and monetary benefits. The said Suganthi Selvakumari did not reclaim her position in the School as well. Under such circumstances, once again the fifth respondent School forwarded the proposal before the fourth respondent for consideration, which was also returned citing the pendency of the Special Leave Petition before the Hon'ble Supreme Court of India. Thereafter, the Hon'ble Supreme Court of India, by Judgment, dated 11.12.2017 set aside the impugned Judgment passed by the Hon'ble Division Bench and remanded the matter to the Hon'ble Division Bench of this Court once again granting leave to the respondents therein including Suganthi Selvakumari to challenge the order, dated 04.12.2017 passed by the fourth respondent. The Hon'ble Division Bench of this Court finally dismissed the Writ Appeal filed by Suganthi Selvakumari on 27.07.2018 making the following observations:-

"26. We cannot however stop with this. The five appellants before us are admittedly qualified candidates with substantial teaching experience. They



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have, unfortunately, been caught in the cross-fire between the election disputes of the two warring factions. While refraining from commenting upon the adequacy or otherwise of such qualifications, we note, as a matter of fact, that all five appellants were engaged for several years with different schools under the TDTA - CSI umbrella. Moreover, out of a total 35 writ petitioners who had approached this Court initially in 2008, only five pursue the litigation today.

27. Thus, and without it becoming a case of precedence, we direct the Manager TDTA, to identify appropriate placement in the schools run by the TDTA Management of course, based on the qualifications and experience of the candidates, and appoint them within a period for four weeks from the date of receipt of a copy of this order. We make it abundantly clear that we have not, in making the aforesaid direction, adverted to the eligibility or qualification of the candidates, which is to be decided by the competent authorities."

5. On receipt of the said order passed by the Hon'ble Division Bench of this Court, the fifth respondent forwarded the petitioner's proposal to the fourth respondent on 06.08.2018. The fourth respondent, on considering all the facts, forwarded the



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petitioner's proposal to the third respondent by proceedings, dated 12.10.2018. The fourth respondent after a period of two years, on 10.08.2020 returned the said proposal on seven grounds. Challenging the same, this Writ Petition came to be filed.

6.The reasons for returning the proposal is as follows:-

"i) Report to the effect that surplus teachers in the school in questions and other schools run by the Management have been redeployed in the needy schools of the management and if not there are no vacant post available to be filled up has not been enclosed an sent letter for redeployment of surplus teachers has not be enclosed.

ii) In one post two teachers were appointed. It may be stated whether the teacher whose services were terminated has been paid salary and if so details thereof.

iii) The recommendation of the present manager of the corporate schools for approving the appointment of the petitioner and also certifying that there are no surplus teachers in the corporate management.

iv) As per the existing Rules, the



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particulars of details of posts fix sanctioned to the school before 1991-1992 have to be furnished.

v) The order of the Administrator for filling up the post has not been enclosed.

vi) As ordered in WA(MD)No.375 of 2009 dated 27.07.2018, of the High Court bench at Madurai, the details of Job provided to the displaced teachers in respect of whom the Manager of the TDTA Schools by this letter dated 28.08.2018 undertook to provide employment to them, may be furnished.

vii) Further as per the Government letter No. 32601/EB2(1)/2019 dated 04.12.2019 until the surplus teachers are redeployment in aided schools no approval for any new appointment shall be made."

7.The crux of all seven grounds would reveal that the fourth respondent has returned the proposal only on two grounds. One is to ascertain the details of jobs provided to the displaced Teachers especially Suganthi Selvakumari and also a report as to the surplus Teachers in the School in question and other Schools run by corporate Management and also the information as to the redeployment in the needy Schools of the surplus Teachers in the management.



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8.This Court is inclined to observe that the question of surplus in this case cannot be racked up because the vacancy arose as early as in the year 2008 and at that point of time, there was no question of surplus. Hence, on this ground, this Court is inclined to quash the impugned order, dated 10.08.2020 passed by the fourth respondent.

9.Accordingly, the impugned order, dated 10.08.2020 passed by the fourth respondent is quashed. The respondents 3 and 4 are directed not to return the proposal any more and the reasons stated in the impugned order with respect to redeployment and surplus Teachers will not hold good. As far as other queries raised in the impugned order, the fifth respondent is directed to rectify the queries and re-submit the proposal before the fourth respondent and the fourth respondent, who in turn will forward the same to the third respondent and the third respondent is directed to approve the proposal of appointing the petitioner in the post of B.T Assistant in a vacancy which occurred as early as in the year 2008, within a period of twelve weeks from the date of receipt of a copy of this order.



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10. With the above observation, this Writ Petition is allowed.

There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC : Yes/No
Index : Yes/No
Internet : Yes
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L.VICTORIA GOWRI, J.

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