



W.P(MD)No.793 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 03.11.2022

DELIVERED ON : 08.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.793 of 2020
and
W.M.P(MD)Nos.567 & 568 of 2020

D.Angeline Stella

... Petitioner

Vs.

1.The State of Tamil Nadu,
Through its Secretary to Government
Education Department,
Secretariat, St.Fort George, Chennai-9.

2.The Director of School Education,
College Road, Chennai-6.

3.The Chief Educational Officer,
Thoothukudi.

4.The District Educational Officer,
Thoothukudi.

5.The Correspondent,
Tucker Higher Secondary School,
Pannaivilai-628 751,
Thoothukudi District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the government order passed by the first respondent in G.O.Ms.No.238, School Education department dated 13.11.2018 and the subsequent original staff fixation for the year of 2019-2020 for fifth respondent school issued by the third respondent in his proceedings in Mu.Mu.No.6105/A3/2019 dated 15.11.2019 in respect of declaring surplus of the petitioner's post of Junior Assistant and quash the same and consequent direction may be issued to the respondents to approve petitioner's appointment as Junior Assistant from the date of her appointment on 01.11.2018 and to disburse all service and monetary benefits within stipulated time.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.R.Baskaran,
Additional Advocate General,
Assisted by
Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner was appointed as Junior Assistant in the fifth respondent school. The school management had sent proposal for



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approving her appointment to the fourth respondent. Citing G.O.(Ms) No. 238, School Education Department, dated 13.11.2018, the proposal was returned. Questioning the said Government Order as well as the consequential proceedings, the present writ petition has been filed.

3.Vide order dated 07.02.2023 in W.P.(MD)No.13428 of 2020, I upheld the validity of G.O.(Ms) No.238, dated 13.11.2018. However, interference is called for with regard to the petitioner's appointment alone. Because the petitioner was appointed on 01.11.2018 ie., well before the issuance of G.O.(Ms) No.238, dated 13.11.2018. The said Government Order cannot operate retrospectively. The Hon'ble Division Bench vide order dated 06.12.2020 in W.A.(MD)No.1052 of 2020 had taken such a view. The impugned order is interfered with to this extent. The school management is permitted to resubmit the proposal pertaining to the petitioner's appointment to the fourth respondent. The respondents 3 and 4 are directed to consider the same without reference to G.O.(Ms) No.238, dated 13.11.2018 and appropriate order on merits and in accordance with law will be passed within a period of six weeks after re-submission of the proposal.



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4.This writ petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

08.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Btr/SKM

To

- 1.The Secretary to Government,
The State of Tamil Nadu, Education Department,
Secretariat, St.Fort George, Chennai-9.
- 2.The Director of School Education, College Road, Chennai-6.
- 3.The Chief Educational Officer, Thoothukudi.
- 4.The District Educational Officer, Thoothukudi.
- 5.The Correspondent, Tucker Higher Secondary School,
Pannaivilai-628 751, Thoothukudi District.

G.R.SWAMINATHAN, J.



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