



W.P.(MD)No.2306 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.2306 of 2020

and

W.M.P(MD)Nos.1958 and 1959 of 2020

The Correspondent,
St.Xavier's Higher Secondary School,
Palayamkottai - 627 002,
Tirunelveli District.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai – 600 009.
2. The Director of School Education,
College Road,
Chennai – 600 006.
3. The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
4. The District Educational Officer,
Tirunelveli,
Tirunelveli District.

.... Respondents



W.P.(MD)No.2306 of 2020

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the fourth respondent District Educational Officer in O.Mu.No.3284/A2/2018, dated ..08.2018 and the consequential proceedings in Na.Ka.No.4314/A2/2018, dated 22.10.2018 quash the same and further direct the fourth respondent / District Educational Officer to release forthwith annual increment admissible to T.Joseph Ricxon in the post of B.T.Assistant (Maths) with effect from 05.06.2012 and to M.Vinoth in the post of B.T.Assistant (Science) with effect from 07.06.2017 with all attendant benefits including the arrears of salary thereon.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

For Respondents : Mr.S.Shaji Bino
Special Government Pleader

O R D E R

This Writ Petition has been filed to call for the records of the impugned proceedings in O.Mu.No.3284/A2/2018, dated ..08.2018 (signed on 05.09.2018) passed by the fourth respondent / District Educational Officer and the consequential proceedings in Na.Ka.No. 4314/A2/2018, dated 22.10.2018 quash the same and direct the fourth respondent / District Educational Officer to release forthwith annual increment admissible to one T.Joseph Ricxon in the post of B.T.Assistant (Maths) with effect from 05.06.2012 and to M.Vinoth in the post of

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B.T.Assistant (Science) with effect from 07.06.2017 with all attendant benefits including the arrears of salary thereon.

2. The case of the petitioner is that the petitioner school is an aided Minority Educational Institution, in which, one post of Secondary Grade Teacher fell vacant on 04.06.2012 due to the promotion of the then incumbent one Paul Kathiravan as Tamil Pandit on 04.06.2012. In the said post, the petitioner School appointed one T.Joseph Ricxon as B.T.Assistant (Maths) with effect from 05.06.2012. After appointment, the petitioner School forwarded a proposal on 03.07.2012 to the District Educational Officer, seeking approval of appointment for the purpose of disbursement of grant-in-aid towards salary. But the fourth respondent has not approved his appointment as the incumbent had not passed the Teachers Eligibility Test. Hence, the petitioner has filed a Writ Petition in W.P.(MD)No.2010 of 2016. Pursuant to the same, the District Educational Officer approved the appointment of T.Jospeh Ricxon as B.T.Assistant (Maths) with effect from 05.06.2012, vide proceedings, dated 05.04.2018. However, the annual increments admissible to him was



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not released till date. In the meantime, another post of B.T.Assistant (Science) in the School fell vacant on 07.06.2017 due to the promotion of the then incumbent S.Arockiyasamy as PG Assistant (Zoology) on 07.06.2017. The petitioner School appointed a person in the said post by name one M.Vinoth as B.T.Assistant (Science). The District Educational Officer without any demur approved his appointment with effect from 07.06.2017 vide proceedings dated 11.08.2017 by considering the proposal submitted by the petitioner dated 14.06.2017. However, the District Educational Officer has not released the annual increment admissible to him. In these circumstances, the petitioner submitted necessary proposal to the District Educational Officer vide letter dated 28.07.2018 requesting to sanction annual increment to Joseph Ricxon in the post of B.T.Assistant (Maths) and to Vinoth in the post of B.T.Assistant (Science) and the same was returned, vide impugned proceedings, dated 05.09.2018. Hence, the petitioner School resubmitted the proposal to the District Educational Officer dated 22.09.2018 by enclosing relevant documents and the same was returned on 22.10.2018. Challenging the same, the present Writ Petition has been filed.



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3. The learned counsel appearing for the petitioner would submit that in the earlier impugned order as well as the present impugned order, the petitioner Management was questioned as to how Joseph Ricxon and Vinoth sought for sanction of annual increment, they were asked to produce the evidence for seeking such annual increment and also to attach a copy of the appointment order of the said two teachers. In the earlier reply dated 22.09.2018 makes it clear that as per the proceedings of the Director of School Education, dated 31.07.2017, the said teachers are entitled for annual increment and approval order was also annexed along with that. Without considering the same, the fourth respondent mechanically passed the impugned orders, which is liable to be interfered with. Accordingly, he prayed for appropriate orders.

4. The learned Special Government Pleader appearing for the respondents would submit that admittedly the teachers appointed by the petitioner School did not pass Teachers Eligibility Test, which is a mandatory qualification for appointment as B.T.Assistant. When the



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teachers obtain the qualification of TET, the appointments would get permanent. Thereafter, the sanction of annual increment will follow. The Circular and other document produced by the petitioner School pertains to the approval of appointment of teachers with TET qualification and the said Circular is not applicable for matter of annual increment. Hence, the fourth respondent has returned the proposal of the petitioner School.

5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. A perusal of the impugned orders reveal that the fourth respondent has sought clarification with regard to the annual increment and approval of the appointment of the teachers. In reply dated 22.09.2018, it is stated that as per the proceedings of the Director of School Education dated 31.07.2017, the said teachers are entitled for annual increment and approval order was also annexed. However, without considering the same, the fourth respondent has mechanically passed the impugned orders and the same is liable to be interfered with.



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Though the impugned order is sought to be sustained by the learned Special Government Pleader on the ground that the teachers have not obtained TET qualification. However, the issue of TET qualification whether mandatory for teachers of minority institutions fell for consideration before the Hon'ble Supreme Court. In ***Paramati Educational and Cultural Trust and others Vs. Union of India and others*** reported in **2014 (4) MLJ 486**, wherein the Hon'ble Supreme Court held that insofar as the teachers of minority institutions, obtainment of TET qualification is not mandatory. The petitioner is a minority institution and therefore, TET qualification is not mandatory. Therefore, the impugned orders passed by the fourth respondent deserve to be interfered with.

7. Accordingly, the impugned orders passed by the fourth respondent dated 05.09.2018 and 22.10.2018 are set aside and the matter is remitted back to the fourth respondent for fresh consideration. The petitioner is directed to furnish the proceedings of the Director of School Education, dated 31.07.2017 and approval order of the teachers to the



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fourth respondent within a period of two weeks from the date of receipt of a copy of this order. If any such document is filed, the fourth respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law as expeditiously as possible.

8. With the above observations, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

14.02.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

1. The Secretary,
The State of Tamil Nadu,
Department of School Education,
Fort St.George,
Chennai – 600 009.

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2. The Director of School Education,
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