

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED: 05.06.2023**CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P.(MD)No.8312 of 2023 and
W.M.P.(MD)Nos.7651 to 7653 of 2023

S.P.Sivasakthi

... Petitioner

Vs.

1. The Chief Educational Officer,
O/o.The Chief Educational Officer,
Madurai,
Madurai District.
2. The District Educational Officer (Secondary Education),
O/o.The District Educational Office,
Madurai,
Madurai District.
3. T.V.S.Higher Secondary School,
Rep. by its Secretary,
Lakshmipuram, Madurai,
Madurai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings in Na.Ka.No.6324/A5/2019 dated 25.08.2020 and the consequential impugned order passed by the 2nd respondent in his



proceedings in O.Mu.No. 205/Aa5/2023 dated 14.02.2023 and quash the same as illegal and consequently to direct the respondents to approve the appointment of the petitioner as B.T.Assistant(English) w.e.f., 31.05.2018 and pay arrears of salary with all consequential benefits arising thereon within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates.

For R-1 & R-2 : Mr.N.Satheesh Kumar,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for respondents 1 and 2.

2. The petitioner was appointed as B.T.Assistant (English) in the third respondent school. By citing G.O.Ms.No.165 School Education Department dated 17.09.2019 approval of the petitioner's appointment was not given. Challenging the same, the present writ petition came to be filed.



3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. The respondents have filed counter affidavit. The learned Additional Government Pleader submitted that the issue is presently pending consideration before the Hon'ble Apex Court. He would also add that the petitioner cannot take advantage of the proceedings issued by the Director of School Education, pursuant to the order dated 18.04.2022 made in W.P.(MD)No.3194 of 2020 etc. According to him, the said proceeding is applicable only in the case of PG Assistant and not in the case of BT Assistant. The case on hand pertains to BT Assistant. Therefore he seeks to defer the adjudication of the issue till the Hon'ble Apex Court decides the issue.

5. I carefully considered the rival contentions and went through the materials on record.



6. As rightly pointed out by the learned counsel appearing for the petitioner, the management did not straightaway appoint the petitioner.

When vacancy arose following the retirement of the incumbent, the management wrote to the department. The Chief Educational Officer, Madurai, vide order dated 03.05.2018 granted permission to the management for filling up the resulting vacancy. Only thereafter, after following the usual procedure, the petitioner was appointed. Therefore, the case on hand cannot be equated to other surplus cases. The principle of estoppel will clearly operate in this case.

7. The petitioner took part in the recruitment process conducted by the management only after the competent authority gave green signal. Similar matters had already been allowed by me. The learned counsel appearing for the petitioner relied on the order dated **20.09.2022** made in ***W.P.(MD)No.8163 of 2020 (N.Prathibha V. The Director of School Education and Others)***. The approach adopted in the aforesaid case has to be adopted in the present case also. The order impugned in this writ petition is set aside.



8. Respondents 1 and 2 are directed to approve the petitioner's appointment and release the salary grant. The petitioner's appointment will be approved with effect from 31.05.2018. The arrears shall also be paid. The entire exercise shall be completed within a period of ten weeks from the date of receipt of a copy of this order. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

05.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

1. The Chief Educational Officer,
O/o.The Chief Educational Officer,
Madurai,
Madurai District.
2. The District Educational Officer (Secondary Education),
O/o.The District Educational Office,
Madurai,
Madurai District.



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6

W.P.(MD)NO.8312 OF 2023

G.R.SWAMINATHAN,J.

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