



W.P.(MD).No.10818 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 26.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.10818 of 2019

J.Malini Joy

... Petitioner

Vs.

1.The District Elementary Educational Officer,
Trichy District,
Trichy – 620 020.

Now re-designated as
District Educational Officer,
O/o. District Educational Officer,
Trichy District.

2.The Additional Assistant Elementary Educational Officer,
Corporation Elementary School,
Puthur,
E.V.R.Road,
Trichy – 620 017.

3.The Correspondent,
TELC Middle School,
Kalla Street,
Trichy – 620 008.

4.The Chief Educational Officer,
Trichy District.

... Respondents



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*(R-4 is suo motu impleaded vide Court Order dated 26.06.2023 in W.P.
(MD).No.10818 of 2019)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in connection with the impugned order in sofaras date of approval is concerned passed in his proceedings in Mu.Mu.No.2167/A3/2011 dated 28.06.2011 and consequential impugned order of rejection passed by him in his Proceedings in Na.Ka.No.3876/A3/2018 dated 01.04.2019 and quash the both as arbitrary and colourable exercise of power and consequently direct the respondents to approve the petitioner's appointment from 01.08.2008 onwards based on the proceedings of the second respondent issued in Na.Ka.No. 297/A2/2011E dated 31.03.2011 and thereby disburse all monetary and attendant benefits within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For R-1, R-2 : Mr.V.Omprakash,
and R-4 Government Advocate.

ORDER

This Writ Petition is filed challenging the order dated 28.06.2011 and consequential order dated 01.04.2019 with a consequential direction to approve the petitioner's appointment from 01.08.2008 onwards based on the proceedings of the second respondent dated 31.03.2011 and thereby disburse all monetary and attendant benefits.



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WEB COP 2. It is seen from the impugned order that initially the petitioner was appointed on 01.08.2008 in the promotion vacancy of S.A.Ruby Markret. But the said post is Secondary Grade Post. Subsequently, the School has appointed the petitioner in the retirement vacancy of one Navarose Jeevarekha who retired on 31.05.2010, which is a B.T. Assistant post. Hence the said appointed was considered by the appropriate authority on 28.05.2011 granting approval from 01.06.2010 only, the date on which the said Navarose Jeevarakha post became vacant. Therefore, the respondents have taken a stand substantiating the earlier approval.

3. On perusing the earlier approval, it is seen that the school was not having any B.T. Assistant post, but in order to protect the interest of students, the petitioner's appointment was approved by the respondents. When the School is not having sanctioned B.T. Assistant, atleast the respondents ought to have considered for approval in the Secondary Grade post. When the said post was available due to promotion of incumbent S.A.Ruby Markret. Moreover, the respondents ought to have considered the students strength. Since these factors were not taken for consideration, this Court is of the considered opinion that the respondents ought to reconsider based on the aforesaid facts. While



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considering, the respondents are directed to take into consideration the surplus teachers.

4. Therefore, this matter is remitted back to the Chief Educational Officer, Trichy. The Chief Educational Officer shall consider the case and pass orders. However, the Chief Educational Officer is not a party in this Writ Petition. This Court is suo motu impleading the Chief Educational Officer, Trichy as one of the party in this Writ Petition. The Chief Educational Officer, Trichy shall consider the aforesaid factors and consider the case of the petitioner in accordance to law. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition is disposed of. No costs.

26.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

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