



W.P.(MD)No.12808 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.12808 of 2020

and

W.M.P.(MD).Nos.10868, 10870, 10873 of 2020 and 1252 of 2021

Mrs.S.P.Vinifred

... Petitioner

Vs.

- 1.The Government of Tamil Nadu
represented by its Chief Secretary,
Department of School Education,
Fort St. George,
Chennai – 600 009.
- 2.The Director of School Education,
DPI Campus,
College Road, Chennai – 600 006
- 3.The Chief Educational Officer,
The Office of the Chief Educational Officer,
Nagercoil,
Kanyakumari District.
- 4.The District Educational Officer,
The Office of the District Educational Officer,
Nagercoil,
Kanyakumari District



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5. The Correspondent

St. Joseph's Girls High School,
Azhagappapuram – 629 401,
Kanyakumari District

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned staff-fixation order, dated 20.01.2020 in Mu.Mu.No.8916/E4/2019, on the file of the third respondent and quash the same as illegal in so far as treating one Secondary Grade post as surplus without teacher, directing the respondents to approve the appointment of the petitioner Mrs.S.P.Vinifred, working as B.T.Assistant (Science) in St. Joseph's Girls High School, Azhagappapuram – 629 401, Kanyakumari District, w.e.f. 16.12.2016, in the Secondary Grade post, as mentioned in the staff-fixation order of the relevant year 2016 - 17, with all service benefits.

For Petitioner	:	FR.V.John Kennedy for M/s.Father Xavier Associates
For R1 to R4	:	Mr.S.Saji Bino Special Government Pleader



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ORDER

This writ petition has been filed challenging the impugned staff-fixation order of the third respondent, dated 20.01.2020 and to quash the same and consequently, direct the respondents to approve the appointment of the petitioner Mrs.S.P.Vinifred, working as B.T.Assistant (Science) in St. Joseph's Girls High School, Azhagappapuram – 629 401, Kanyakumari District with effect from 16.12.2016, in the Secondary Grade post, as mentioned in the staff-fixation order of the relevant year 2016 - 17, with all service benefits.

2. The case of the petitioner is that she was appointed as Graduate Assistant in the fifth respondent School in the year 2016, in the place of Secondary Grade Teacher Mrs.D.Maria Jeyakkodi, who retired from service on 30.06.2016. The said post is a regular sanctioned post with grant in aid from the Government. The fifth respondent School is a minority School. Thereafter, a proposal for approval of appointment of the petitioner as Graduate Assistant was forwarded to the educational authorities enclosing



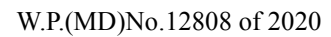
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all the relevant documents, on 08.08.2017. Since there was no reply, the fifth respondent School sent a representation dated 23.07.2018 to the fourth respondent, requesting him to approve the appointment of the petitioner. However, till date the fourth respondent has not approved the appointment of the petitioner and the third respondent has passed the present impugned order declaring the petitioner's post as surplus one. At the time of appointment of the petitioner, the post was not declared as surplus. Hence, challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that this Court may issue a direction to the fourth respondent to consider the proposal forwarded by the fifth respondent School dated 08.08.2017, for approval of the petitioner's appointment, within a stipulated time as fixed by this Court.

4. However, the learned Special Government Pleader appearing for the respondents 1 to 4 would submit that admittedly the petitioner's post was not approved till date and without approval filing the present writ



5. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 4.

6. The facts in the present case are not in dispute. The petitioner claimed that she was appointed as Graduate Assistant in the fifth respondent School in the year 2016, on the vacancy arose due to retirement of Mrs.D.Maria Jeyakkodi, on 30.06.2016. It is also not in dispute that till date the said post was not approved. While so, in the year 2020, the third respondent fixed the teachers strength in terms of G.O.(Ms.)No.525, School



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Education Department (D1), dated 29.12.1997. Though the petitioner claimed that she was appointed in the year 2016, till 2020 she has not taken any steps to approve her appointment and instead she has filed this writ petition challenging the impugned order passed, which is not sustainable one. If at all any error in the impugned order, the fifth respondent School Management ought to have preferred an appeal before the Chief Educational Officer, within a period of fifteen days from the date of impugned order. The petitioner's post is not approved and she has no *locus standi* to challenge the impugned order. Hence, the prayer sought for in this writ petition cannot be granted. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

19.01.2023

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To

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



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M.DHANDAPANI,J.

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