



W.P(MD)No.12910 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12910 of 2021

and

W.M.P(MD)No.9981 of 2021

The Secretary / Correspondent,
Madura College Higher Secondary School,
R.M.S.Road – 625 001,
Madurai District.

... Petitioner

Vs

- 1.The State represented by
The 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,
Madurai – 625 002,
Madurai District.
- 4.The District Educational Officer,
Madurai – 625 002,
Madurai 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, to call for the records relating to the impugned order passed by the third respondent Chief Educational Officer in O.Mu.No.3318/Aa4/2020 dated 14.06.2021 denying approval to the appointment of S.Banupriya as BT Assistant (Maths), quash the same, and further direct the third Respondent CEO to approve forthwith the appointment of S.Banupriya as BT Assistant (Maths) in the petitioner School W.e.f 01.08.2019, with all attendant benefits including arrears of salary and allowances.

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

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner is an aided institution. Vacancy arose in the petition mentioned sanctioned post following the promotion of the incumbent. The petitioner approached the competent authority seeking permission to fill up the resulting vacancy. Permission was accorded. Copy of the said proceedings has been enclosed in the typed set of papers. Only thereafter, after following due



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procedure, the petitioner appointed the petition mentioned candidate S.Banupriya as BT Assistant (Maths) with effect from 01.08.2019. However, approval was denied. 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 learned Additional Government Pleader appearing for the respondents submitted that the impugned order does not call for interference. He pressed for dismissal of the writ petition.

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

6.The issue raised in the writ petition is no longer *res integra*. Vide order dated 05.06.2023 in W.P(MD)No.8312 of 2023, I had held as follows:

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



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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.”



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I adopt the very same approach in the present case also. In as much as the petition mentioned candidate was appointed after getting permission from the competent authority, the order impugned in this writ petition is set aside. The respondents are directed to approve the appointment of Ms. S.Banupriya and release the salary grant. The petitioner's appointment will be approved with effect from 01.08.2019. 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.

7.This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

14.06.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

- 1.The Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.
- 2,The Director of School Education,
College Road,
Chennai – 600 006.



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G.R.SWAMINATHAN, J.

MGA

3.The Chief Educational Officer,
Madurai – 625 002,
Madurai District.

4.The District Educational Officer,
Madurai – 625 002,
Madurai District.

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