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W.P.(MD)NO.16367 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.16367 of 2021 & 9993 of 2022

AND

W.M.P.(MD)Nos.13642 of 2021, 7120 & 7121 of 2022
& 9260 of 2022 & 5571 of 2023

W.P.(MD)No.16367 of 2021

E.Stella Mary

... Petitioner

Vs.

1. The Director for Welfare of the Differently Abled,
No.5, Kamarajar Salai,
Lady Wellington College Campus,
Chennai – 600 005.

2. The District Differently Abled Welfare Officer,
O/o.The Welfare of the Differently Abled,
Collectorate,
Tirunelveli – 627 009.

3. The Manager,
TDTA Hr. Secondary / Secondary / Special Schools,
Diocesan Office, Palayamkottai,
Tirunelveli – 627 002.

4. The Correspondent,
Florence Swainson Hr. Sec. School for Deaf,
Kulavanigarpuram, Palayamkottai,
Tirunelveli – 627 002.

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to grant approval of the petitioner's appointment to the post of Junior Assistant with the 4th respondent School w.e.f., 24.07.2017 by considering the proposal made by the 2nd respondent vide proceeding in Na.Ka.No. 9424/A/2020 dated 05.12.2020 and consequently to direct the respondents to disburse the salary along with arrears with 9% interest till the date of the disbursal within stipulated time.

* * *

W.P.(MD)No.9993 of 2022

E.Stella Mary

... Petitioner

Vs.

1. The Director for Welfare of the Differently Abled,
No.5, Kamarajar Salai,
Lady Wellington College Campus,
Chennai – 600 005.
2. The District Differently Abled Welfare Officer,
O/o.The Welfare of the Differently Abled,
Collectorate,
Tirunelveli – 627 009.
3. The Manager,
TDTA Hr. Secondary / Secondary / Special Schools,
Diocesan Office, Palayamkottai,
Tirunelveli – 627 002.
4. The Correspondent,
Florence Swainson Hr. Sec. School for Deaf,
Kulavanigarpuram, Palayamkottai,
Tirunelveli – 627 002.

... Respondents



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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, calling for the records relating to the proceedings of the impugned termination order of the petitioner dated 18.04.2022 on the file of the 4th respondent and consequently directing the respondents 3 and 4 to reinstate the petitioner into service and pay all other monetary and service benefits within the time stipulated by this Court.

(In both W.Ps.)

For Petitioner : Mr.I.Robert Chandrakumar

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

For R-3 : Mr.P.P.Alwin Balan

For R-4 : Mr.G.Prabhu Rajadurai

* * *

COMMON ORDER

Heard the learned counsel on either side.

2. One E.Stella Mary was appointed as Junior Assistant in the fourth respondent school on 24.07.2017. One Mrs.Helan Shanthi Natchathiram was the incumbent and she was transferred to West



Tirunelveli Higher Secondary School, Nallur. The said Helan Shanthi filed writ petition before this Court and obtained an interim order of stay.

As a result, she continued to work in the very same place to which the petitioner was appointed. Obviously, the department cannot be expected to pay salary to two teachers working in one post. Realizing this situation, the learned counsel appearing for the petitioner on instructions submitted that since Helan Shanthi Natchathiram retired on 31.10.2019, the petitioner can be treated as having been appointed to the said post with effect from 01.11.2019. The management also does not have any objection.

3. It is not in dispute that the institution in question is a minority institution. The post is also a sanctioned one. In these circumstances, I direct the management / fourth respondent herein to send a fresh proposal to the department within a period of three weeks from the date of receipt of a copy of this order seeking approval of the petitioner's appointment as Junior Assistant with effect from 01.11.2019. It is for the department to appropriately consider the said proposal in accordance with law and pass final order within a period of six weeks thereafter. Since in view of the direction now given, the order of termination impugned in W.P.(MD)



No.9993 of 2022 is set aside and WP(MD)No.9993 of 2022 is allowed,

W.P.(MD)No.16367 of 2021 is disposed of accordingly. No costs.

Consequently, connected miscellaneous petitions are closed.

02.06.2023

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

To:

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Chennai – 600 005.
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O/o.The Welfare of the Differently Abled,
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W.P.(MD)NO.16367 OF 2021

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.16367 of 2021 &
W.P.(MD)No.9993 of 2022

02.06.2023