



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.11.2022

Pronounced on : 08.02.2023

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16833 of 2022

and

W.M.P(MD)Nos.12218 & 12289 of 2022

The Secretary,
Kammavar Girls Higher Secondary School,
Kalugumalai – 628 552,
Thoothukudi District.

.... Petitioner

Vs.

1.The State represented by
The Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.

2.The Commissioner of School Education,
College Road,
Chennai – 600 006.

3.The Chief Educational Officer,
Thoothukudi District,
Thoothukudi – 628 002.

4.The District Educational Officer,
Kovilpatti,
Thoothukudi District.

... Respondents



Prayer : Writ Petitions 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 proceedings issued by the 4th respondent District Educational Officer in O.Mu.No. 5600/Aa2/2021 dated 22.02.2022, Quash the Same and further Direct the 3rd respondent Chief Educational Officer to approve forthwith the appointment of G.Sankareswari as Office Assistant in the petitioners school w.e.f. the date of her appointment viz., 09.12.2021, with all attendant benefits including the arrears of salary and allowances.

For Petitioner : Mr.K.Ragatheesh Kumar
Senior Counsel
for M/s.Isaac Chambers

For Respondents : Mr.R.Baskaran
Additional Advocate General
Assisted by Mr.S.Shaji Bino
Special Government Pleader

ORDER

Heard both sides.

2.The writ petitioner is an aided higher secondary School. One G.Sankareswari was appointed as Office Assistant with effect from 09.12.2021 when approval of the appointment was sought. Vide proceedings dated 22.02.2022, the District Educational Officer, Kovilpatti returned the proposal



and declined to grant approval on the ground that there are surplus persons available for filling up the said post in the District. The impugned order rests on G.O(Ms)No.101 School Education (Budget – 1) Department 18.05.2018 and G.O(Ms)No.238 School Education [Pa.K 6(1)] Department dated 13.11.2018. The validity of the Government Orders is not under challenge in this writ petition.

3.The issue of surplus is real. Posts are rendered surplus in view of the fall in students strength. That leads to redeployment. Deployment is not always possible. In such cases, the surplus teachers are paid salary without extracting any work from them. This has serious implication for State exchequer. The State is therefore entitled to take the stand if there are surplus teacher available in the District, any subsequently arising vacancy must be filled up only by deploying those teachers. That is why G.O(Ms)No.101 School Education (Budget – 1) Department 18.05.2018 talks about granting prior approval. The petitioner has not averred that the reason no.5 set out in the impugned order is incorrect.

4.In this view of the matter, interference in view of the impugned order is not warranted. Liberty is given to the petitioner to re-submit the proposal



before the fourth respondent. If as of now there are no surplus posts available in the District, the case of G.Sankareswari can be reconsidered. It is for the fourth respondent to take a call in the matter. If there are surplus teachers and if the petitioner is entitled to the post, a favourable order can be passed notwithstanding the fact that prior permission was not obtained. If surplus teachers are still available, the question of revisiting does not arise at all.

5. With this liberty to the writ petitioner to approach the fourth respondent again, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.02.2023

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 Commissioner of School Education,
College Road,
Chennai – 600 006.



3. The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.

4. The District Educational Officer,
Thoothukudi,
Thoothukudi District.

5. The Correspondent,
T.D.T.A.K.G.M.Higher Secondary School,
S.Kailsapuram,
Thoothukudi District.



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G.R.SWAMINATHAN, J.

MGA

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