



W.P.(MD)No.4830 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4830 of 2018

A.Ponnia Samuel

... Petitioner

Vs.

- 1.The Secretary,
Department of School Education,
State of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai – 9.
- 2.The Director of School Education,
DPI Campus,
Chennai – 6.
- 3.The Chief Educational Officer,
Thoothukudi.
- 4.The District Educational Officer,
Thoothukudi.
- 5.The Correspondent,
TDTA Kurukalperi Higher Secondary School,
Asirvathapuram,
Thoothukudi District.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the fourth respondent in his proceedings in A.Thi.Mu.No.1033/A3/18, dated 24.02.2018 and quash the same as illegal and consequently direct the respondents to approve the petitioner's appointment as Physical Education Teacher from the date of the petitioner's appointment and to pay all the service and monetary benefits within the stipulated time.

For Petitioner	: Mr.T.A.Ebenezer
For R-1 to R-4	: Mr.S.Saji Bino, Special Government Pleader
For R-5	: No Appearance

ORDER

This writ petition has been filed to quash the order passed by the fourth respondent in his proceedings in A.Thi.Mu.No.1033/A3/18, dated 24.02.2018 and consequently, to direct the respondents to approve the petitioner's appointment as Physical Education Teacher from the date of the petitioner's appointment and to pay all the service and monetary benefits within a stipulated period.



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2. The case of the petitioner is that the petitioner was appointed as Physical Education Teacher on 08.01.2018 in the fifth respondent School in the sanctioned vacancy caused due to the permanent transfer of one S.Selvam Seenivasagam on 09.10.1986. Till the appointment of the petitioner, the said vacancy was not filled up. Moreover, the fifth respondent school was having the students strength of more than 250 students at the time of appointment of the petitioner and they are eligible to appoint one Physical Education Teacher in the said school. Subsequently, the fifth respondent school forwarded necessary proposal for approval of appointment of the petitioner. However, the fourth respondent has rejected the said proposal stating that staff fixation for the year 2015-2016 and 2016-2017 was not fixed for the post of Physical Education Teacher. Challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that it is the duty of the official respondents to fix staff strength in respect of the fifth respondent school. Therefore, without fixing the staff



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strength for the years 2015-2016 and 2016-2017, the impugned order passed by the fourth respondent rejecting the proposal sent by the fifth respondent is not sustainable one. Moreover, the fifth respondent school had appointed the petitioner in the sanctioned vacancy and no Physical Education Teacher was available in the fifth respondent school at the time of appointing the petitioner and the fifth respondent is eligible to appoint one person as Physical Education Teacher in terms of G.O.Ms.No.525 School Education Department, dated 29.12.1997 and therefore, the impugned order is liable to be set aside and hence, prayed for appropriate orders.

4. The learned Special Government Pleader appearing for the official respondents would submit that for the fifth respondent school, the staff fixation order was communicated in the month of October 2017 and in the staff fixation order, no Physical Education Teacher post is fixed for the year 2017-2018 as done for the year 2016-2017 and knowing all these facts, the fifth respondent has appointed the petitioner without post. If at all the fifth respondent school has total students



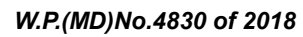
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strength above 250, from 6th standard to 10th standard, they should apply to the Government for sanction of Physical Education Teacher post and therefore, the impugned order passed by the fourth respondent is perfectly in order and the same does not require interference at the hands of this Court.

5. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 4 and perused the materials placed before this Court.

6. Admittedly, there was a vacancy in the sanctioned post of Physical Education Teacher in the fifth respondent School and the vacancy arose due to the transfer of one Selvam Seenivasagam and the said vacancy was not filled up till the appointment of the petitioner. Admittedly, the petitioner was appointed on 08.01.2018 and subsequently, a proposal was forwarded to the fourth respondent. However, the fourth respondent has rejected the said proposal on the ground that for the years 2015-2016 and 2016-2017, in the staff fixation



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7. Accordingly, this writ petition is allowed and the impugned order passed by the fourth respondent, dated 24.02.2018, is set aside. The fourth respondent is directed to approve the appointment of the petitioner in terms of G.O.Ms.No.525 School Education Department, dated 29.12.1997, within a period of eight weeks from the date of receipt of a copy of this order. No Costs.

08.02.2023

pm
NCC:Yes/No
Index:Yes/No

To

- 1.The Secretary,
Department of School Education,
State of Tamil Nadu, Secretariat,
Fort St. George, Chennai – 9.
- 2.The Director of School Education,
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M.DHANDAPANI,J.

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