



W.P.(MD).No.20586 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.20586 of 2022
and WMP(MD)Nos.14921 and 14922 of 2022

The Secretary,
A.V.D.Higher Secondary School,
Ganapathipuram – 629 502.
Kanyakumari District.

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education, Fort St.George,
Chennai - 600 009.
2. The Director of School Education,
College Road, Chennai.
3. The Chief Education Officer,
Nagercoil, Kanyakumari District.
4. The District Educational Officer,
Thuckalay- 629 175.
Kanyakumari Distirct.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the 4th respondent DEO in O.Mu.No. 869/Aa3/ 2020, dated 11.11.2021 (denying approval to the appointment of V.Archana as P.G.Assistant in Economics in the petitioner-school), quash the same and further direct the 3rd and 4th respondents to approve forthwith the appointment of V.Archana as PG Assistant (Economics) in the petitioner school with effect from the date of her appointment viz., 10.02.2020 and release salary and all attendant benefits with effect from the said date.

For Petitioner : Mr.K.Ragatheesh Kumar
for Isaac Chambers

For Respondent : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The present writ petition has been filed seeking a direction to quash the impugned proceeding issued by the 4th respondent DEO in O.Mu.No. 869/Aa3/ 2020, dated 11.11.2021 (denying approval to the appointment of V.Archana as P.G.Assistant in Economics in the petitioner-school) and further direct the 3rd and 4th respondents to approve forthwith the appointment of V.Archana as PG Assistant (Economics) in the petitioner school, with effect



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from the date of her appointment viz., 10.02.2020 and release salary and all attendant benefits with effect from the said date.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.Heard, Mr.K.Ragatheesh Kumar, learned counsel appearing for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondents. Perused the materials on record.

4.(i).The petitioner's School is a non minority single Management School. On 30.03.2016 one Post Graduate (PG) Assistant in Economics fell vacant, due to the promotion of the then incumbent S.Rajasekaran as Headmaster on 01.04.2016.

(ii).The petitioner School submitted a proposal to the CEO through DEO on 02.09.2018, seeking to grant permission to fill up the said vacant post of PG Assistant (Economics). The said proposal was considered by the respondents and granted permission to fill up the said post vide proceedings of the CEO, dated 21.12.2019. After the said permission, the petitioner school



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invited applications from eligible candidates by making advertisement in various newspapers and affixing the vacancy position in the notice board.

(iii).One V.Archana was selected in the selection process and she was appointed on 10.02.2020 as P.G.Assistant (Economics) in the petitioner School. On her appointment, a proposal seeking approval of her appointment was sent along with the relevant necessary documents to the respondents. However, the said proposal was rejected by the fourth respondent, passed the impugned order on 11.11.2021 and consequently returned the proposal. Assailing the same, the present writ petition came to be filed.

5.It is the grievance of the petitioner that after having obtained the approval vide proceedings, dated 21.12.2019, to make an appointment in the vacancy, which has arisen on 30.03.2016 in the petitioner's school, the fourth respondent ought not to have rejected the proposal seeking approval of appointment of V.Archana.

6.The learned counsel for the respondents would contend that in W.A. (MD).No.76 of 2019 Batch, dated 31.03.2021, this Court has issued series of direction to the department to be followed in the matter of granting



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approval and held that even after making redeployment process within the unit if still excess staffs are available, the Education Department shall take further efforts for those excess teachers still available at the hands of the Education Department to be redeployed to any needy school located in the same Educational District or Revenue District and even beyond and they can be redeployed to any school beyond the Revenue District. Though the writ petitioner school do not have any surplus teachers, other schools coming within the same Educational District have surplus teachers. The Government has taken steps to deploy the surplus teachers, who are working within the same Educational District to needy schools. The grievance of the petitioner would only cause unnecessary interference in the process of deployment. In view of the above, Chief Educational officer has rightly rejected the same. Hence, prayed to dismiss the writ petition.

6.The issue in this writ petition is no more res-integra. This Court dealt with a similar case in WP(MD)No.12909 of 2021 and the relevant portion is extracted hereunder:



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“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 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.



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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.”

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.P.Amutha and release the salary grant. The petitioner's appointment will be approved with effect from 29.07.2019. 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.I am fully in consonance to the order passed by this Court and in the light of the same, I hereby acknowledge the fact that prior permission has been granted by the Authorities concerned to fill up the vacancies, which has been arisen on 30.03.2016 and only thereafter, the petitioner school in



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accordance with adopting necessary procedures, appointed one V.Archana in the said post. Hence, necessarily the respondents ought to have approved the said appointment.

8.In view of the same, I hereby quash the impugned proceedings issued by the fourth respondent DEO in O.Mu.No. 869/Aa3/ 2020, dated 11.11.2021 and direct the respondents to approve the appointment of Ms.V.Archana and release her salary w.e.f.10.02.2020 with all arrears, to which she is entitled shall also be paid to her, within a period of twelve (12) weeks, from the date of receipt of a copy of this order.

9.Accordingly, this writ petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

24.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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- To
1. The Secretary,
State of Tamil Nadu,
Department of School Education, Fort St.George,
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 2. The Director of School Education,
College Road, Chennai.
 3. The Chief Education Officer,
Nagercoil, Kanyakumari District.
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L.VICTORIA GOWRI, J.

PNM

ORDER IN
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