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W.P.(MD)No.13424 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.13424 of 2014

T.Kala Sornabai

... Petitioner

vs.

1.The District Elementary Educational Officer,
Tirunelveli.

2.The Additional Assistant,
Elementary Educational Officer,
Nanguneri, Tirunelveli District.

3.The Correspondent,
C.M.S.Evangelical Schools,
Idayankulam and Kandithankulam,
Pastorates at Panankulam,
Nanguneri Taluk,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to approve the appointment of the petitioner as Secondary Grade Teacher



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from the date of appointment, ie., 01.06.2000 and pay salary and other benefits to the petitioner up to 25.10.2004 by considering the representation, dated 08.08.2013.

For Petitioner : Mr.V.Panner Selvam
For R1 & 2 : Mr.V.Om Prakash
Government Advocate
For R3 : No appearance

ORDER

This writ petition is filed for writ of Mandamus, to direct the respondents to approve the appointment of the petitioner as Secondary Grade Teacher from the date of appointment, i.e., 01.06.2000 and pay salary and other benefits to the petitioner upto 25.10.2004 by considering the representation, dated 08.08.2013.

2. The brief facts of the case are that the petitioner was possessing Diploma in Teacher Education, based on the said qualification the 3rd respondent appointed the petitioner as Secondary Grade Teacher on



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01.06.2000 in the vacancy which arose due to relieving of a Teacher, namely, Mrs.P.Jenet Mebal Tamilselvi in C.M.S.Evangelical Middle School. The school forwarded the proposal to the official respondents for approval and the same was returned on the ground that the approval would be considered after redeployment of surplus teachers in the 3rd respondent corporate management schools. Thereafter, there was several communications between the management and the department. The department was replying that the proposals submitted by the management would be considered after the deployment of surplus teachers.

3. As far as the 3rd respondent is concerned, whenever any appointments or transfers are forwarded for approval, the 3rd respondent would state that each school is a single unit and the proposal cannot be returned by stating the school is coming under corporate management. However, when the papers were forwarded for approval, the official respondents would reply that the proposal would be considered after



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redeployment of the surplus teachers to various schools functioning under the same management. Thereafter, the petitioner was transferred to C.M.S.Evangelical Elementary School, Kovaikulam, in the transfer vacancy of one A.Selvamercy. When the proposal was still pending, the petitioner got appointment in the Panchayat Union Elementary School, Nalamkattalai on 25.10.2004. Hence, the petitioner was relieved from the 3rd respondent management school and joined the Panchayat Union School on 25.10.2004. The contention of the petitioner is that the persons who were appointed along with the petitioner received approval from the official respondents and their service from the date of original appointment in the management schools were also taken into account for counting the service. Hence the petitioner's appointment ought to have been approved from 01.06.2000 to 25.10.2004. In spite of the said service, the petitioner was denied salary and other benefits, hence aggrieved over the same, the present writ petition is filed.



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4. The 1st respondent has filed a counter affidavit stating that the petitioner has stated that she had worked from 01.06.2000 to 25.10.2004 but the present writ petition was preferred after a lapse of more than 10 years. Hence, the writ petition is hit by delay and laches. It is false to contend that the school management has forwarded the proposal to approve the petitioner's appointment and the respondents have returned the papers citing surplus teachers working in several schools of the same management. But the fact remains till date, no such proposal was submitted by the management and the authorities has not received any such proposal. The petitioner has submitted representation seeking approval without any relevant records, hence the same cannot be considered. Moreover, during the period from 01.06.2000 to 25.10.2004, there were several surplus teachers working in the schools which are running under the C.M.S. Diocese and the surplus teachers ought to be



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deployed to the needy schools. More particularly, during the year 2002, there was a specific communication by the authorities to the school management stating that number of surplus teachers are working in those schools and further directed the school management to redeploy them to the needy schools in the existing vacancies. But the management claimed to be a minority institution and refused to adhere to the directions. Therefore, the 1st respondent prayed to dismiss the writ petition.

5. Heard Mr.V.Panner Selvam, learned Counsel appearing for the petitioner and Mr.V.Om Prakash, learned Government Advocate appearing for respondents 1 and 2 and perused the records.

6. The contention of the petitioner is that she had worked from 01.06.2000 onwards in the 3rd respondent School and the 3rd respondent had submitted the proposal but the official respondents returned the same citing surplus teachers working in the same management. There are



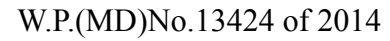
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judgments to the fact which states that even if there are surplus teachers, the respondents should approve their appointment, thereafter, deploy them to any needy school. Therefore, the official respondents are bound to approve the appointment of the petitioner in the 3rd respondent School.

7. However, the 1st respondent has filed a counter affidavit stating that the 3rd respondent never ever submitted any proposal seeking the approval of the petitioner's appointment. When the official respondents have taken such stand, the petitioner has not filed any reply denying this fact.

8. Even if the petitioner's case is accepted, the respondents have denied granting approval stating that there are surplus teachers in the same corporate management and unless they deploy them to some needy places, fresh appointments cannot be approved. A specific stand was taken by the official respondents by stating that as early as 2002 itself,



10. For all these reasons, the petitioner's claim cannot be considered. Hence, the writ petition is dismissed. No costs.

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