



W.P(MD)No.20566 of 2

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20566 of 2023

and

W.M.P(MD)Nos.16984 & 16985 of 2023

Jeya Sheela

... Petitioner

Vs.

1.The Director of Elementary School Education,
D.P.I Compound,
College Road,
Chennai.

2.The Chief Educational Officer,
Tenkasi District,
Tenkasi.

3.The District Educational Officer (Elementary),
Tenkasi District,
Tenkasi.

4.The Block Educational Officer,
Keelapavur Range,
Tenkasi District.

5.The Correspondent,
T.D.T.A Middle School,
Adaikalapattanam,
Tenkasi District.

... 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, call for the records in 366/ஆ3/2020, dated 15.09.2020 passed by the third respondent and quash the same and consequently direct the respondents 3 and 4 to approve the appointment of petitioner as Secondary Grade Teacher at fifth respondent School and disburse all the service and monetary benefits from 05.12.2014.

For Petitioner : Mr.S.Chellapandian
For R-1 to R-4 : Mr.V.Om Prakash
Government Advocate
For R-5 : No appearance

ORDER

The present writ petition has been filed by a Secondary Grade Teacher challenging the order passed by the third respondent herein, wherein her appointment has been returned on the ground that there may be surplus Teachers within the Corporate Management of the petitioner School.

2. According to the learned Counsel appearing for the petitioner, the petitioner was appointed as a Secondary Grade Teacher on 05.12.2014 within the sanctioned strength as per the staff fixation order for the relevant academic



year, namely, 2014-2015. It is an admitted fact that the School falls within the Corporate Management.

3. The learned Counsel appearing for the petitioner brings to the notice of the Court that around 30 Teachers were found to be surplus Teachers within TDTA Corporate Management and they were redeployed on 25.09.2014. Therefore, after 25.09.2014, there were no surplus Teachers within the Corporate Management. The petitioner was appointed on 05.12.2014 in an existing vacancy of a sanctioned post. Therefore, the order impugned in the writ petition is not sustainable according to the learned counsel appearing for the petitioner.

4. Per contra, the learned Government Advocate appearing for the respondents 1 to 4 relying upon the counter had contended that the petitioner has been appointed in a transferred vacancy and therefore, the said vacancy could be filled up only through the existing surplus Teachers available in the same Corporate Management. The transferred vacancy is also not a sanctioned vacancy and therefore, the appointment of the writ petitioner cannot be approved.



5. I have carefully considered the submissions made on either side and perused the materials available on record.

6. As per the contentions of the writ petitioner, the redeployment order has been passed by the third respondent herein on 25.09.2014 for 30 Teachers and therefore, there are no surplus Teachers after 25.09.2014 under TDTA Corporate Management. This issue has not been addressed in the counter. In case, if there are no surplus Teachers within the Corporate Management after 25.09.2014, the authorities have to ascertain whether the appointment of the writ petitioner is within the sanctioned strength for the academic year 2014-2015. In case, if there are no surplus Teachers in the Corporate Management and the appointment is within the sanctioned strength as per the staff fixation order for the academic year 2014-2015, there cannot be any legal impediment for the authorities to approve the appointment.

7. According to the learned Counsel appearing for the petitioner, the appointment of one Secondary Grade Teacher, namely M.Prema Latha has been approved by the authorities for the same Management on 20.11.2023 with effect from 05.12.2014. The petitioner also brings to the notice of the Court that



the appointment of another Secondary Grade Teacher, namely, C.Samuel Dharmaraj has been approved by the authorities on 26.07.2023 with effect from 08.03.2019. Therefore, when the approval of the other Teachers in the same Corporate Management have already been approved by the authorities, they cannot cite the alleged availability of surplus Teachers in the academic year 2014-2015.

8. In view of the above said deliberations, the third respondent herein is directed to approve the appointment of the writ petitioner as a Secondary Grade Teacher with effect from 05.12.2014 with all attendant benefits within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9. This writ petition stands allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

14.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR



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R.VIJAYAKUMAR, J.

BTR

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