



W.P.(MD).No.22913 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.22913 of 2022

and

W.M.P(MD)No.17031 of 2022

A.Jaya Deepa

... Petitioner

Vs.

1.The District Educational Officer,
O/o. The District Educational Officer,
Sankarankovil,
Tenkasi District.

2.The Block Educational Officer,
O/o. The Block Educational Officer,
Alangulam,
Tenkasi District.

3.The Correspondent,
R.C.Middle School,
Oothumalai,
Tenkasi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent issued with the impugned order passed by in his proceedings in Aa.Thi.Mu.No.1834/A1/2020 dated 17.12.2020 and



W.P.(MD).No.22913 of 2022

quash the same as illegal and arbitrary and consequently direct the respondents 1 and 2 to approve the petitioner's appointment a Secondary Grade Teacher in the 3rd respondent School with effect from 13.06.2018 with all service and monetary benefits within the time limit that may be stipulated by this Court.

For Petitioner : Mr.K.Sankar

For R1 & R2 : Mr.N.Ramesh Arumugam
Government Advocate

For R3 : No Appearance

ORDER

The present writ petition has been filed to call for the records on the file of the 1st respondent issued with the impugned order passed by in his proceedings in Aa.Thi.Mu.No.1834/A1/2020 dated 17.12.2020 and quash the same as illegal and arbitrary and consequently direct the respondents 1 and 2 to approve the petitioner's appointment a Secondary Grade Teacher in the 3rd respondent School with effect from 13.06.2018 with all service and monetary benefits within the time limit that may be stipulated by this Court.

2. The petitioner is a differently abled person and she was appointed as Secondary Grade Teacher on 11.06.2018 in the 3rd respondent school in a vacancy which arose due to the transfer of one Kiladi Kavitha Rani. The



W.P.(MD).No.22913 of 2022

petitioner was accommodated on 13.06.2018 in that sanctioned post. Thereafter, the 3rd respondent school had sent a proposal, dated 18.09.2018 to the respondents 1 and 2 to approve the appointment of the petitioner as Secondary Grade Teacher in the 3rd respondent school. After a span of 2 years, on 17.12.2020, vide impugned order, the 1st respondent returned the proposal stating that the 3rd respondent school is minority institution under the corporate management and the teacher concerned is not qualified in TET and the post which become vacant by transfer ought to have been filled by transferring surplus teacher from the other schools run by the same corporate management. Challenging the same, this writ petition came to be filed.

3. The 1st respondent has filed a counter and the learned Government Advocate submitted that instead of the appointing the petitioner afresh in the vacancy which arose due to the transfer of one Kiladi Kavitha Rani, the management ought to have transferred one of its surplus teachers. He further submitted that unless and until the petitioner is qualified in TET, the appointment could not be approved, since the Special Leave Petition with respect to the qualification of TET to be acquired by the teachers of minority



W.P.(MD).No.22913 of 2022

institution is pending before the Hon'ble Apex Court in Diary No.17702 of 2021 which was filed as earlier as on 03.08.2021.

4. However, the learned counsel for the petitioner drew my attention to the staff fixation pertaining to the 3rd respondent school, it has been clearly fixed that during the period 2018-19, the availability of one needy post of Secondary Grade Teacher in the aforesaid school and as far as the appointment of the petitioner is concerned, she was appointed in the year 2018 and the said staff fixation is also of the year 2018-19. However, without considering the approval of the petitioner's appointment as earlier as in the year 2018 itself, the impugned order came to be passed after a period of 2 years on 17.12.2020.

5. The matter in this case is no more *res integra*. This Court has already dealt with a case in similar line in ***W.P(MD)No.12940 of 2021 (L.Princeton Fernando Vs. The State of Tamil Nadu, Represented by its Secretary & Others) dated 30.06.2022*** has passed favourable orders to the petitioner and the relevant portion of which is extracted as follows:

“.....The proposal of the fifth respondent School, dated 28.01.2021, seeking for approval of the petitioner's appointment as BT Assistant (English) came to be rejected by the fourth respondent herein through the impugned order, dated 21.06.2021, predominantly, on the ground that since the



W.P.(MD).No.22913 of 2022

WEB COPY

Government letter, dated 04.12.2019, stipulates that unless the surplus teachers in Government run middle schools and high schools are deployed to other needy schools, no recruitment or appointment can be done.

2. The letter of the Government, dated 04.12.2019, referred to in the impugned order was the outcome of the decision of this Court passed in a batch of Writ Petitions in the case of Secretary to Government and others Vs. Iruthaya Amali and another reported in 2021 SCC OnLine Mad 1285. In the said decision, what was ordered is that the excess teaching staffs are required to be identified in all category schools and till such time, the "Government" shall not appoint Teachers under any category. The order does not speak about appointments that have already been made and which are awaiting approval of the authorities. This decision has been ratified in several judgments passed by this Court in identical circumstances. As such, placing reliance on the Government Letter, dated 04.12.2019 and rejecting the petitioner's claim on the ground that until surplus teachers are filled, no approval can be granted, is misplaced and liable to be set aside."

This Court in another case in W.P.No.1959 of 2020, dated 29.01.2020 has also dealt with a similar matter and has passed the favourable orders to the petitioner.

6. Hence, I am fully in consonance with the decisions made by this Court in the aforesaid decisions. Following the same, I hereby quash the impugned order, dated 17.12.2020 and thereafter, consequently call upon the 3rd respondent to resubmit the earlier proposal along with a staff fixation details for the period 2018-19 back to the 1st respondent through the 2nd respondent. On receipt of the same, the 1st respondent shall forthwith pass orders approving the



W.P.(MD).No.22913 of 2022

appointment of the petitioner to the post of Secondary Grade Teacher with effect from 13.06.2018, if otherwise qualified and such order shall be passed within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

14.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
gbg

To

1.The District Educational Officer,
O/o. The District Educational Officer,
Sankarankovil,
Tenkasi District.

2.The Block Educational Officer,
O/o. The Block Educational Officer,
Alangulam,
Tenkasi District.

3.The Correspondent,
R.C.Middle School,
Oothumalai,
Tenkasi District.



WEB COPY



W.P.(MD).No.22913 of 2022

L.VICTORIA GOWRI, J.

gbg

W.P.(MD).No.22913 of 2022

14.09.2023