



W.P.(MD).No.20655 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 14.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20655 of 2023

and

W.M.P(MD) No.17084 of 2023

S.Mansuralihan

... Petitioner

Vs.

1. The Chief Educational Officer
Madurai District.

2. The District Educational Officer, (Secondary)
Melur, Madurai District.

3. The Correspondent,
Al Ameen Higher Secondary School,
K.Pudur,
Madurai District.

... Respondents

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 pertaining to the order passed by the first respondent in his proceedings in O.Mu.No.7965/A4/2020, dated 24.12.2020 and quash the same and consequently direct the respondents to approve the appointment of the petitioner as Physical Education Teacher with effect from 01.07.2019 with salary and all consequential benefits.



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For Petitioner : Mr.V.Panneer Selvam
For Respondents : Mr.V.Om Prakash
Government Advocate
for R1 and R2
: No appearance – for R3

ORDER

The present writ petition has been filed by a Physical Education Teacher challenging the order passed by the first respondent herein, wherein, his appointment has not been approved.

2. The petitioner has been appointed as a Physical Education Teacher in the vacancy arising out of promotion on 01.07.2019. When the proposal was forwarded by the School Management, the same was rejected relying upon the interim order passed by this Court in W.A.(MD) No. 76 of 2019, etc., batch, dated 09.04.2019 and G.O.(Ms) No.165, School Education Department, dated 17.09.2019. The said order is under challenge in the present writ petition.

3. According to the learned counsel appearing for the writ petitioner, as per G.O.(Ms) No.165, School Education Department, dated 17.09.2019, there



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are no surplus teachers in the Minority Stand alone School. He further relied upon the staff fixation order for the academic year 2019 – 2020 to contend that one post of Physical Education Teacher is available for being filled up by the Management.

4. However, the learned Government Advocate appearing for the respondents had contended that if there are surplus teachers in the other Management or within the Institution, they have to be taken into consideration before granting approval to the Management. Hence, he prayed for sustaining the order passed by the authority.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2.

6. The petitioner has been appointed as a Physical Education Teacher on 01.07.2019. Admittedly, the petitioner's School is a Minority Stand alone School. A perusal of the staff fixation order for the academic year 2019 – 2020 indicates that there is a sanctioned vacancy (without being deployed as surplus) for the post of Physical Education Teacher. Therefore, there cannot



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be any impediment for the said Management to fill up the said post. The authorities have erroneously relied upon G.O.(Ms) No.165, dated 17.09.2019 and the interim order, dated 09.04.2019 in W.A(MD) No. 76 of 2019.

7. In view of the above said facts, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the first respondent. The first respondent herein is directed to pass orders approving the appointment of the writ petitioner as Physical Education Teacher with effect from 01.07.2019 with all attendant benefits. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above said observations, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

14.12.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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Madurai District.
2. The District Educational Officer, (Secondary)
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R.VIJAYAKUMAR,J.

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