



W.P(MD)No.20864 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.20864 of 2023

and

W.M.P(MD)No.17276 of 2023

M.Jesuraja

... 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



W.P(MD)No.20864 of 2

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 pertaining to impugned order passed in Na.Ka.No.274/ஆ1/2022, dated 27.04.2023 and quash the same and consequently direct the respondents to approve the appointment of petitioner as B.T Assistant 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

ORDER

The present writ petition has been filed by a B.T Assistant (English) Teacher challenging the order passed by the third respondent herein, wherein the approval for his appointment was rejected on the ground that the School has not been sanctioned with B.T Assistant (English) Teacher for the academic year 2014-2015.

2. The petitioner was appointed to the post of B.T Assistant (Upgraded from Secondary Grade Teacher post) on 04.12.2014. The authorities have refused to approve the said appointment by an order, dated 23.02.2015.



Challenging the same, the petitioner had filed W.P(MD)No.22841 of 2016 before this Court. This Court was pleased to allow the writ petition on 30.11.2016 with a direction to the authorities to pass an order of approval within a period of four weeks from the date of receipt of a copy of the order.

3. Aggrieved over the order of the learned Single Judge, the Educational Authorities have filed W.A(MD)Nos.471 to 475 of 2018. The Hon'ble Division Bench of this Court was pleased to dismiss the writ appeals on 20.03.2018 with the following observation. Paragraph No.8 is extracted as follows:

"8. So far as the facts of the present cases are concerned, the problem as pointed by the learned Special Government Pleader does not arise in these cases on account of the fact that the District Elementary Educational Officer while ascertaining the staff strength for the academic year 2014-2015 found that there are 30 excess teachers in the various schools run by the respondent Corporate Management and instructions were given to the Corporate Management, who, in turn have transferred 30 such excess teachers to various other needy schools within their Management. These proceedings having been endorsed by the District Elementary Educational Officer, binds the department."

4. The learned Counsel appearing for the petitioner relied upon the said judgment of the Hon'ble Division Bench and contended that there are no



surplus Teachers in TDTA Management for the academic year 2014-2015 and therefore, the appointment of the petitioner should have been approved by the authorities.

5. Per contra, the learned Government Advocate appearing for the respondents 1 to 4 relying upon the counter had contended that the vacancy in which the petitioner has been appointed is only a transferred vacancy and it has not arisen due to retirement or death. Therefore, the said vacancy can be filled up only by accommodating a surplus Teacher and not by a fresh appointment.

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

7. The learned Single Judge of this Court by an order, dated 30.11.2016 has issued a positive direction to the authorities to approve the appointment of the writ petitioner. The said order has been confirmed by the Hon'ble Division Bench with a specific finding that there are no surplus Teachers in the academic year 2014-2015. The present impugned order has been passed with a remark that the School has not been sanctioned with B.T Assistant (English) Teacher



W.P(MD)No.20864 of 2

post for the academic year 2014-2015 without even having knowledge of the fact that the said vacancy has arisen due to the upgradation of a Secondary Grade Teacher post as B.T Assistant post.

8. In view of the above said facts, the order impugned in the writ petition is set aside. The third respondent herein is directed to approve the appointment of the writ petitioner with effect from 04.12.2014 with all attendant benefits. The said exercise shall be completed within a period of eight (8) 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 Petition stands closed.

14.12.2023

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



W.P(MD)No.20864 of 2

To
WEB COPY

- 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.



WEB COPY



W.P(MD)No.20864 of 2

R.VIJAYAKUMAR, J.

BTR

W.P(MD)No.20864 of 2023

14.12.2023