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W.P.(MD)No.1302 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1302 of 2016 and
W.M.P.(MD)No.1074 of 2016

Hindu Higher Secondary Schoool,
Kannankulam Sri Mutharamman Kalvi
Valarchi Sangam,
Kannankulam Post,
Radhapuram Taluk,
Tirunelveli District,
Through its Secretary,
I.Mani Varna Perumal.

... Petitioner

vs.

- 1.The Director of School Education,
College Road, Chennai-6.
- 2.The Chief Educational Officer,
Tirunelveli -1.
- 3.The District Educational Officer,
Cheranmadevi Educational District,
Tirunelveli-1.

... Respondents



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W.P.(MD)No.1302 of 2016

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the entire records in connection with the impugned order passed by the 3rd respondent in O.Mu.No.4601/Aa2/2015, dated 15.10.2015 and to quash the same and to direct the 3rd respondent to approve the appointment of Mrs.Bhama as B.T. Assistant (Mathematics) in the sanctioned post at petitioner's school namely, Hindu Higher Secondary School Kannankulam Sri Mutharamman Kalvi Valarchi Sangam, Kannankulam Post, Radhapuram Taluk, Tirunelveli District with effect from 04.11.2011 as per proposal submitted by the petitioner school.

For Petitioner : Mr.K.K.Kannan
For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

This impugned order in this writ petition is passed declining the appointment of a Teacher, namely S.Bhama, since she is not possessing TET qualification.



W.P.(MD)No.1302 of 2016

WEB COPY

2. The petitioner school is a private non-minority educational institution and has appointed one S.Bhama as B.T. Assistant. It is an admitted fact that the said S.Bhama is not possessing TET qualification. The said S.Bhama attempted to qualify TET and had written TET examination, but unfortunately she had not passed the examination.

3. In the present case the petitioner had appointed the said teacher on 04.11.2011 and the same is after the cutoff date of 29.07.2011 prescribed in the relevant rules. The issue of non-qualification of TET has been dealt by this Court in several writ petitions as well as writ appeals wherein it has been held that the Teachers shall continue in service with salary alone, but they will not be entitled to any benefits attached to the service. However, in W.P.(MD)No.11317 of 2022 the Hon'ble Division Bench vide order dated 29.03.2023 has held that the teachers irrespective of cutoff date is not entitled to continue the service.



W.P.(MD)No.1302 of 2016

WEB COPY

But another Hon'ble Division Bench in the judgment dated 02.06.2023 rendered in W.A.No.313 of 2022 batch has held that the said teachers cannot continue in the service if the appointment is after the cutoff dated 29.07.2011 (in the present case it is after cutoff date 04.11.2011). Since there are conflicting judgments, the issue is placed before the Hon'ble Chief Justice to refer the case for Hon'ble Full Bench in W.A.(MD)No. 432 of 2023 vide order dated 08.06.2023.

4. Therefore, the respondents are directed not to remove the said Teacher from service and allow her to continue in service until the issue is settled.

5. With the above said direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

30.03.2023

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W.P.(MD)No.1302 of 2016

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W.P.(MD)No.1302 of 2016

S.SRIMATHY, J

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W.P.(MD)No.1302 of 2016

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