



W.P.(MD).No.25194 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.25194 of 2022

and

W.M.P(MD)No.19290 of 2022

R.Grace Pappa

... Petitioner

Vs.

1.The Commissioner of School Education,
College Road,
Chennai – 600 006.

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

3.The District Educational Officer,
Tenkasi,
Tenkasi District.

4.The Correspondent,
C.E.T Tennyson High School,
Keela Kalangal,
Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to condition No.4 in impugned proceedings issued by the first respondent herein vide in O.Mu.No.4204/D2/E3/2021, dated



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19.07.2021 (signed on 03.09.2021) and impugned proceedings issued by the third respondent herein vide in O.Mu.No.3042/Aa4/2021, dated 02.12.2021 and quash the same and further direct the respondents 2 and 3 herein to approve the petitioner's appointment as B.T Assistant (Science) in the fourth respondent School with effect from the date of appointment viz., 01.06.2018 with salary and attendant benefits.

For Petitioner	: Mr.A.Ajith Geethan
For RR 1 to 3	: Mr.N.Ramesh Arumugam Government Advocate
For R – 4	: No appearance

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the condition No.4 in impugned proceedings issued by the first respondent herein vide in O.Mu.No.4204/D2/E3/2021, dated 19.07.2021 (signed on 03.09.2021) and impugned proceedings issued by the third respondent herein vide in O.Mu.No.3042/Aa4/2021, dated 02.12.2021 and further direct the respondents 2 and 3 herein to approve the petitioner's appointment as B.T Assistant (Science) in the fourth respondent School with effect from the date of appointment viz., 01.06.2018 with salary and attendant benefits.



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2.Heard Mr.A.Ajith Geethan, learned counsel appearing for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondents 1 to 3 and perused the materials available on record.

3.The petitioner is working as B.T Assistant (Science) in the fourth respondent School which is a recognized aided minority single management institution. Due to the promotion of the previous incumbent, one T.Devarajan as Headmaster on 01.06.2018, one post of B.T Assistant (History) fell vacant in the fourth respondent School. In the said sanctioned post, the petitioner was appointed as B.T Assistant (Science) with effect from 01.06.2018. In the staff fixation issued for the academic year 2018-2019 on 13.03.2019, the petitioner's post was showed as a needed post and was referred as B.T Assistant (History) in the staff fixation. Thereafter, in April 2019, the fourth respondent School submitted the proposal to the second respondent, seeking permission to convert the subject from B.T Assistant (History) to B.T Assistant (Science). The said proposal was forwarded by the second respondent to the first respondent on 31.07.2019. The same was returned by the first respondent vide proceedings dated 01.10.2019 seeking certain clarifications. The fourth



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respondent School immediately resubmitted the proposal on 30.10.2019. After two years, on 19.07.2021, the first respondent passed the impugned order granting permission to convert the subject from History to Science subject to the condition that the said conversion would come into effect only from the date of issue of the order ie., with effect from 19.07.2021. Challenging the same, the fourth respondent School submitted the proposal to the District Educational Officer on 14.09.2021 along with an order of post-conversion requesting to approve the appointment of the petitioner as B.T Assistant (Science) with effect from her date of appointment, ie., from 01.06.2018. Even after that fact, vide second impugned order, dated 02.12.2021, the third respondent returned the proposal stating that the proposal shall be considered only after the final order is passed in S.L.P which is preferred as against the order passed in W.A(MD)No.76 of 2019.

4.The learned Government Advocate has filed a counter-affidavit and submitted that the fourth respondent School Management was directed to get prior permission for subject conversion by stating the necessity so as to enable the deployed surplus teachers available in the particular subject. If the prior permission is dispensed with then



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the appointment made by the School Management contrary to the requirements of the School would be approved by the Department and here the prior permission is not dispensed with and hence, this Writ Petition is liable to be dismissed.

5.The learned counsel appearing for the petitioner relied upon the order passed by this Court in **C.Wilson Sundar Raj Vs. Director of School Education and others** reported in **(2012) 3 MLJ 678**. The relevant portion applicable to this case is extracted as follows:-

"12.A perusal of the Judgments, which are relied on by the learned counsel for the petitioner support his case for seeking approval of the post of P.G Assistant (English) from the post of P.G Assistant (English) from the date of appointment of the petitioner namely on 19.01.1999 and get the salary and other attendant benefits instead of 19.03.2002 being the date of the order passed by the first respondent permitting the conversion. Once the first respondent granted permission to convert the post from P.G Assistant (Tamil) into P.G Assistant (English) at the fourth respondent School such permission should take effect from the date of appointment of the



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petitioner, especially when the request for conversion of the post was made by the School based on the appointment of the petitioner on 19.01.1999."

6.The said order squarely covers the petitioner's claim to approve her post as B.T Assistant (Science) from the date of her appointment with effect from 01.06.2018. In the light of the same, this Court quashes condition No.4 in the impugned order, dated 19.07.2021 passed by the first respondent and consequently, directs the second respondent to approve the petitioner's appointment as B.T Assistant (Science) with effect from 01.06.2018.

7.The Hon'ble Division Bench of this Court in ***W.A(MD)No.1076 of 2018 etc., batch cases, dated 26.07.2023 (The District Elementary Educational Officer and another Vs. J.Ramilatha and another)***, has held as follows:-

"4.The learned Additional Advocate General appearing on behalf of the State would only request that any order of approval granted to the candidates be subject to the result of S.L.P.(C)No.15702 of 2021 filed by the State challenging an order passed by this Court



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in W.A(MD)No.76 of 2019 and batch dated 31.03.2021.

5.We see no reason to deny this request, as in an identical situation, orders have been passed in the case of several other candidates along similar lines.

7.That apart, in a batch of Writ Petitions in W.P(MD)No.3194 of 2020 and batch in B.Kurinjimalaron vs State of Tamil Nadu and others [Order dated 18.04.2022], an identical direction was issued in favour of several candidates. In W.A.(MD)No.6340 of 2018 and batch, in S.Helan Raja Soundari vs The District Elementary Educational Officer and others, [order dated 02.09.2022], an identical direction was issued in the case of several other candidates and admittedly, orders of approval have been issued in respect of several of the candidates forming part of that batch.

8.In light of the discussion above and in the interest of uniformity, the same directions are issued in the present matters as well. There is a direction to the State to approve the appointments of the respondents/Writ Petitioners subject to the result of S.L.P.(C)No.15702 of 2021 challenging order dated 31.03.2021 passed in W.A.(MD)No.76 of 2019, within a period of six weeks from date of receipt of a copy of this order.



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8.Relying upon the Judgment passed by the Hon'ble Division Bench of this Court in W.A(MD)No.1076 of 2018 etc., batch cases, dated 26.07.2023, this Court is not inclined to quash the impugned order, dated 02.12.2021, because the said order has been passed on the basis that the request of the petitioner would be considered subject to the result of the Hon'ble Supreme Court in S.L.P(C)No.15702 of 2021 preferred as against W.A(MD)No.76 of 2019, which is still pending. The second respondent is further directed to approve the appointment of the petitioner subject to the result of S.L.P(C)No.15702 of 2021 challenging the order dated 31.03.2021 passed in W.A(MD)No.76 of 2019, within a period of six weeks from the date of receipt of a copy of this order.

9.With the above observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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

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L.VICTORIA GOWRI, J.

ps

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