



W.P.(MD) No.25143 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2023

CORAM:

THE HONOURABLE Mr.JUSTICE BATTU DEVANAND

W.P.(MD) No.25143 of 2019

and

W.M.P.(MD) No.21738 of 2019

D.Avila Rani

.. Petitioner

Vs.

- 1.The Secretary to Government,
School Education Department,
St. George Fort, Chennai.
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Kanyakumari District
at Nagercoil.
- 4.The District Educational Officer,
Thiruvattar,
Kanyakumari District.
- 5.The Correspondent,
St. Joseph's Higher Secondary School,
Trituvpuram-629 163,
Kanyakumari District.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to approve the appointment of the petitioner in the post of BT Assistant (Maths) from the date of appointment that is on 01.06.2015 and consequently direct the respondents to disburse monetary and other attendant service benefits, including payment of arrears of salary from the date of appointment that is 01.06.2015 by considering the proposal re-submitted by the 5th respondent dated 17.10.2018 within a time frame that may be fixed by this Court.

For Petitioner	:	Mr.S.C.Herold Singh
For RR1 to 4	:	Mr.V.Nirmal Kumar Government Advocate
For R5	:	Mr.K.A.Thirumalaiappan

ORDER

This writ petition has been filed seeking writ of mandamus directing the respondents to approve the appointment of the petitioner in the post of B.T. Assistant (Maths) from the date of appointment, i.e., 01.06.2015 and for a consequential direction to the respondents to disburse monetary and other attendant service benefits including



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payment of arrears of salary from the date of her appointment by considering the proposal re-submitted by the 5th respondent on 17.10.2018 within a time frame.

2. Heard the learned counsel for the petitioner, learned Government Advocate for respondents 1 to 4 and the learned counsel appearing for the 5th respondent.

3. The case of the petitioner is that the petitioner was appointed as B.T. Assistant (Maths) in the 5th respondent-School on 01.06.2015. The 5th respondent sent a proposal to the 4th respondent on 02.07.2015 to approve the appointment of the petitioner. On oral enquiry, it was learnt that the proposal to approve the appointment of the petitioner was not considered on the ground that the petitioner did not pass Teacher Eligibility Test. In fact, the petitioner has passed Teacher Eligibility Test in the year 2013. On 26.08.2015, the 4th respondent returned the proposal of the 5th respondent stating that the petitioner did not enclose No Objection Certificate from the 3rd respondent with regard to the



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rotation of subject. On 08.02.2017, the 5th respondent re-submitted the proposal stating that as the 5th respondent-School is a minority institution, prior permission is not required and the petitioner has already passed Teacher Eligibility Test. Again the proposal was returned by the 3rd respondent on 31.07.2017 stating that three teaching posts of Maths over all the R.C. Management of Kanyakumari District is surplus and before filling the surplus post, the appointment of the petitioner would not be approved. The proposal was re-submitted on 17.10.2018. Till then, it is pending with the 4th respondent. Aggrieved by the action of the 4th respondent in not passing orders on the proposal sent by the 5th respondent for approval of the appointment of the petitioner, the present writ petition is filed.

4. On behalf of respondents 1 to 4, a counter affidavit has been filed by the 4th respondent.

5. It is averred in the said counter affidavit that the 5th respondent-School has appointed the petitioner in a surplus post and therefore, it is



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not possible to approve the new appointment and sought to dismiss the writ petition.

6. During the course of hearing, learned counsel appearing on either side reiterated the submissions basing on the averments made in their affidavit and counter affidavit.

7. Having regard to the facts and circumstances of the case, it appears that the petitioner was appointed as B.T.Assistant (Maths) on 01.06.2015 in the 5th respondent-School and subsequently, the 5th respondent sent proposal for approval of the petitioner's appointment. The same was returned thrice and it was re-submitted finally by the 5th respondent on 17.10.2018. It is pending before the 4th respondent. As the proposal is pending with the 4th respondent from 17.10.2018, in my considered opinion, it is appropriate to direct the 4th respondent to consider the proposal re-submitted on 17.10.2018 and pass appropriate orders by following due process of law within a stipulated time to meet the interest of justice.



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8.1. Accordingly, this writ petition is disposed of with a direction to the 4th respondent to consider the proposal re-submitted by the 5th respondent on 17.10.2018 and pass orders in accordance with relevant Government Orders and Rules and by following due process of law within a period of four weeks from today.

8.2. No costs.

8.3. Consequently, connected miscellaneous petition is closed.

30.08.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

- 1.The Secretary to Government,
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BATTU DEVANAND, J.

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