



W.P.(MD).No.24725 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.24725 of 2023

and

W.M.P(MD) No.20898 of 2023

M.Angel Briskilla

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St. George,
Chennai – 600 009.
2. The Director of Elementary Education,
College Road, Chennai – 600 006.
3. The District Educational Officer (Elementary)
Kanyakumari District at Nagercoil.
4. The Block Educational Officer,
Kuzhithurai,
Kanyakumari District.
5. The Manager,
Aided Primary School,
Mottakkala,
Edaicode Post – 629 152,
Kanyakumari District.

... Respondents



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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 relating to the impugned order passed by the second respondent Director of Elementary Education in Na.Ka.No.034072/H3/2023, dated 09.01.2023 denying approval to the appointment of petitioner as Secondary Grade Teacher in the fifth respondent School and the consequential proceedings of the third respondent District Educational Officer (Elementary) in Na.Ka.No.120/Aa5/2022, dated 20.02.2023, quash the same, and further direct the respondents to approve forthwith the appointment of petitioner as Secondary Grade Teacher in the fifth respondent School w.e.f., 02.01.2017, with all attendant benefits including arrears of salary.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

For Respondents : Mr.N.GA.Natraj
Government Advocate
for R1 to R4

ORDER

The present writ petition has been filed by a Secondary Grade Teacher challenging the order passed by the educational authorities, wherein, the request for approval of her appointment was rejected by the second respondent and the consequential order passed by the third respondent herein.



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2. According to the learned counsel appearing for the writ petitioner, the writ petitioner was appointed as a Secondary Grade Teacher on 02.01.2017. At the time of her appointment, three posts were sanctioned for the said School, namely, one post of Headmaster, one post of Secondary Grade Teacher for (Malayalam) subject and one post of Secondary Grade Teacher (Tamil) subject. At the time of her appointment, the post of Secondary Grade Teacher for (Malayalam) subject was subject matter of litigation. One Mr.R.N.Krishnan, who was appointed as a Secondary Grade Teacher (Malayalam) on 01.12.2006 was not approved by the authorities. But, ultimately, the approval was granted only on 06.02.2020 with effect from 02.06.2014.

3. According to the learned counsel appearing for the writ petitioner, in the academic year 2016 – 2017, when the petitioner was appointed as a Secondary Grade Teacher, the School was eligible to appoint one Secondary Grade Teacher. The staff fixation order reflected that the School was entitled to appoint one Secondary Grade Teacher. Therefore, the petitioner's appointment should be approved from 02.01.2017. However, as per the



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impugned order, one post has been allotted to R.N.Krishnan, and the order of approval has been passed only on 06.02.2020 with effect from 02.06.2014. Hence, according to the learned counsel appearing for the writ petitioner, his appointment should be approved from the initial date of appointment, namely, 02.01.2017.

4. Per contra, the learned Government Advocate appearing for the respondents 1 to 4 had contended that apart from the post of Headmaster, only one post of Secondary Grade Teacher is available, as per the staff fixation order in the academic year 2016 – 2017. The appointment of One R.N.Krishnan, who was appointed as a Secondary Grade Teacher for Malayalam subject in the year 2006 was approved with effect from 02.06.2014. Therefore, the petitioner who was appointed in the year 2016 cannot make a claim to the said vacancy. Hence, he prayed for sustaining the order passed by the authorities herein.

5. I have carefully considered the submissions made on either side.



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6. A perusal of the staff fixation order for the academic year 2016 – 2017 reveals that apart from the post of Headmaster, only one Secondary Grade Teacher post has been sanctioned for the school. Therefore, the dispute arose to get accommodated in the said post one Mr.Krishnan, who was working as a Secondary Grade Teacher (Malayalam) from 01.12.2006 onwards. Since his appointment was not approved, the staff fixation order continued to indicate that the said post is vacant. Later, the educational authorities approved the appointment of R.N.Krishnan on 06.02.2020 with effect from 02.06.2014. Therefore, the said vacancy got filled up. However, according to the learned counsel appearing for petitioner, the post of Krishnan is a Secondary Grade Teacher post for Malayalam subject and he cannot take classes for the Tamil subject. Therefore, the authorities were not right in fixing only one Secondary Grade Teacher post for the academic year 2016 -2017 ignoring the fact that the Teacher who had already been appointed is for Malayalam subject.

7. A perusal of the typed set of papers indicates that from the year 2020 – 2021 onwards, the staff fixation order reflects that apart from the Headmaster, two Secondary Grade Teachers posts are made available to the



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said School. Therefore, there cannot be any dispute for the petitioner's appointment to be approved with effect from 01.06.2020 onwards.

8. Considering the fact that the institution is a stand alone minority School, the respondents authorities are directed to approve the appointment of the writ petitioner with effect from 01.06.2020 onwards. According to the learned counsel appearing for the writ petitioner, the staff fixation order of the year 2016 - 2017 does not indicate a separate Secondary Grade Teacher Malayalam and Tamil subject. Therefore, the appointment of R.N.Krishnan, who is a Malayalam Teacher cannot be an impediment for considering the name of the petitioner as a Secondary Grade Teacher (Tamil) even from the academic year 2016-2017. If such a request is made, the authorities are directed to consider the said request in the light of the fact that the Malayalam Teacher cannot take Tamil calsses.

9. In view of the above said deliberations, this Court is inclined to pass the following orders:

(i) The authorities are directed to approve the appointment of the writ petitioner as Secondary Grade Teacher from 01.06.2020 onwards with all



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attendant benefits within a period of twelve weeks from the date of receipt of a copy of this order;

(ii) In case, any representation is made by the writ petitioner to consider her approval from the academic year 2016-2017, the authorities are directed to consider the said request in the light of the fact that the appointment of Malayalam Secondary Grade Teacher cannot be an impediment for appointing as Secondary Grade (Tamil) Teacher in the said academic year.

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

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

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Department of School Education,
Fort St. George,
Chennai – 600 009.
2. The Director of Elementary Education,
College Road, Chennai – 600 006.
3. The District Educational Officer (Elementary)
Kanyakumari District at Nagercoil.
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R.VIJAYAKUMAR,J.

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