



W.P(MD)No.26738 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2023

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.26738 of 2023

and

W.M.P(MD)Nos.22997 & 22998 of 2023

The Correspondent,
CMSES David Memorial Higher Secondary School,
Karisal Post,
Cheranmahadevi,
Tirunelveli District-627 414.

... 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 School Education,
College Road, Chennai-600 006.
- 3.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 4.The District Educational Officer,
Tirunelveli (Secondary),
Tirunelveli District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to



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call for the records relating to the impugned proceeding issued by the 4th respondent DEO in O.Mu.No.1811/A3/2020, dated 11.11.2020 (denying approval to the appointment of D.Tennis Doss as BT Assistant (Science) in the petitioner school), quash the Same, and further direct the 3rd and 4th respondents to approve forthwith the appointment of D.Tennis Doss as BT Assistant (Science) in the petitioner-school with effect from the date of his appointment viz., 03.06.2019 and release salary and all attendant benefits with effect from the said date.

For Petitioner : M/s.M.F.Rooshi Maas
for M/s.Isaac Chambers

For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

The present writ petition has been filed by an aided minority stand alone school challenging the order passed by the 4th respondent herein, wherein the approval for the appointment of one D.Tennis Doss as B.T Assistant (Science) Teacher has been rejected.

2. According to the school management, one D.Tennis Doss was appointed as B.T Assistant (Science) teacher on 03.06.2019 and the appointment order was sent for approval. Under the impugned order, the 4th respondent has rejected the approval citing various reasons which may not be connected at all for approving the appointment of B.T Assistant



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Teacher. A perusal of the impugned order indicates that the following reasons have been assigned:

- (i) The Death Certificate of Gnanaprakasam has not been enclosed.
- (ii) Department approval for the appointment of Correspondent has not been enclosed.
- (iii) No prior permission has been obtained for converting Secondary Grade Post to B.T Assistant post.
- (iv) The approval order for the year from 1993 to 2002 for classes 11 and 12 has not been included.
- (v) The management has not taken any steps to fill up the said post from the year 2014 onwards.
- (vi) G.O.Ms.No.165, School Education Department, dated 17.09.2019 does not permit the appointment of teachers when there are surplus.
- (vii) The subject roaster has not been followed.

3. The reasons cited in the impugned order will clearly indicate that the rejection order has been passed primarily on the ground that no prior permission has been obtained from the authorities for upgradation of Secondary Grade Post to B.T Assistant Post. This Court has time and against held that the Government has taken a policy decision to upgrade



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Secondary Grade Post as B.T Assistant post. Whenever permanent vacancies arise in the Secondary Grade Teacher post who are taking classes for 6th to 8th standards, they have to be mandatorily filled up only by the B.T Assistant teacher. Therefore, the question of seeking prior permission from any one of the authorities does not arise.

4. Under the impugned order, G.O.Ms.No.165 School Education Department, dated 17.09.2019 has been cited as one of the reasons to contend that when there are surplus teachers, the question of fresh appointment would not arise. This order has been passed without even considering the fact that the petitioner school is a stand alone minority school. The question of surplus teachers would not arise. The authority has to see the staff fixation order for the academic year 2019-20 and if there are vacancies for filling up B.T Assistant teachers within the sanctioned strength, he has to proceed and pass orders approving the appointment.

5. In view of the above said facts, the order impugned in the writ petition is set aside and the 4th respondent is directed to approve the appointment of the writ petitioner as B.T Assistant (Science) with effect



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from 03.06.2019 with all attendant benefits. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of copy of this order.

6. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

14.12.2023

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

1. The Secretary,
The State of Tamil Nadu,
Department of School Education,
Fort St.George, Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai-600 006.
- 3.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 4.The District Educational Officer,
Tirunelveli (Secondary),
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R.VIJAYAKUMAR,J.

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Order made in
W.P(MD)No.26738 of 2023

Dated:
14.12.2023