



W.P(MD)No.29303 of 2

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.29303 of 2023

and

W.M.P(MD)Nos.25318 to 25320 of 2023

S.Christabel Vimala

... Petitioner

Vs.

1.The Director of School Education,
Directorate of School Education,
DPI Compound, College Road,
Chennai-6.

2.The Chief Educational Officer,
Office of the Chief Educational Office,
Nagercoil,
Kanyakumari District.

3.The District Educational Officer (Elementary),
Office of the District Educational Office,
Nagercoil,
Kanyakumari District.

4.Home Church Girls High School,
Represented by its Correspondent,
Nagercoil,
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 third respondent by his proceedings in ஓ.மு.எண்.6144/ஆ5/2023, dated 16.10.2023 signed on 18.11.2023 and quash the same as illegal and consequently to direct the respondents 2 and 3 to approve the appointment of the petitioner as B.T Assistant (Maths) with effect from 01.06.2015 and pay arrears of salary with all consequential benefits arising thereon.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For R-1 to R-3 : Mr.V.Om Prakash
Government Advocate

ORDER

The present writ petition has been filed by a B.T Assistant (Maths) Teacher challenging the order passed by the third respondent herein, wherein her appointment was not approved.

2. According to the learned Counsel appearing for the writ petitioner, a vacancy arose in the fourth respondent School in the cadre of Secondary Grade Teacher, who was taking classes for 6th to 8th standard. In view of the policy decision of the Government, whenever a permanent vacancy arises in the



Secondary Grade Teacher post, who was taking classes for 6th to 8th standard, it gets automatically upgraded to B.T Assistant Post. Therefore, the petitioner was appointed as a B.T Assistant (Maths) on 01.06.2015. A proposal was forwarded by the Management to the authorities for approval. Since the same was kept pending, the petitioner had filed W.P(MD)No.26927 of 2023 seeking expeditious approval for her appointment. This Court by an order, dated 09.11.2023 had directed the authorities to consider the said request on merits and in accordance with law and pass orders.

3. In compliance with the orders of this Court, the present impugned order has been passed on 16.10.2023 rejecting the approval on the ground that SLP(C)No.15702 of 2021 before the Hon'ble Supreme Court is pending challenging the order of the Hon'ble Division Bench of this Court in a batch of writ appeals in W.A(MD)Nos.76 of 2019 etc., dated 31.03.2021. Challenging the said order, the present writ petition has been filed.

4. According to the learned Counsel appearing for the writ petitioner, the petitioner Institution though it is a minority Institution, it is a stand alone School. As per the staff fixation order for the academic year 2015-2016, the



petitioner has been appointed in a sanctioned post and there are no surplus Teachers in the said academic year. Therefore, the authorities were not right in relying upon the pendency of SLP before the Hon'ble Supreme Court.

5. Per contra, the learned Government Advocate appearing for the respondents 1 to 3 have contended that it has to be verified whether there are any surplus Teachers in the relevant academic year or not.

6. Heard the learned Counsel on either side and perused the materials available on record.

7. As rightly contended by the learned Counsel appearing for the petitioner, the pendency of SLP before the Hon'ble Supreme Court challenging the order of Hon'ble Division Bench of this Court in a batch of writ appeals in W.A(MD)Nos.76 of 2019 etc., dated 31.03.2021 has nothing to do with the approval of the appointment of the writ petitioner. The petitioner has been appointed prior to G.O(Ms)No.165, School Education Department, dated 17.09.2019. That apart, it is a minority stand alone School. Therefore, the question of considering the surplus Teachers would not arise.



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8. In view of the above said facts, the order impugned in the writ petition is set aside. The authorities are directed to approve the appointment of the writ petitioner as B.T Assistant (Maths) Teacher with effect from 01.06.2015 with all attendant benefits, if the appointment is within the sanctioned strength of the academic year 2015-2016. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9. This writ petition stands allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

12.12.2023

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

To

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R.VIJAYAKUMAR, J.

BTR

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