



W.P(MD)No.30549 of 2

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 21.12.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.30549 of 2023

and

W.M.P(MD)Nos.26263 & 26266 of 2023

J.Christy Malarvizhi

... Petitioner

Vs.

1.The Chief Educational Officer,
Thoothukudi District,
Thoothukudi.

2.The District Educational Officer,
Thoothukudi District,
Thoothukudi.

3.The Correspondent,
St. Joseph Girl's Higher Secondary School,
Sattankulam-628 704,
Thoothukudi District.

... Respondents

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 proceeding in O.Mu.No.835/Aa1/2023, dated 19.07.2023 passed by the second respondent and quash the same and consequently direct the respondents to approve the promotion of the petitioner



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to the post of P.G Assistant (Maths) with effect from 01.07.2022 with all monetary benefits.

For Petitioner : Mr.T.Antony Arulraj

For R-1 & R-2 : Mr.V.Om Prakash
Government Advocate

ORDER

The present writ petition has been filed by a P.G Assistant (Maths) Teacher challenging the order passed by the Educational Authorities, wherein they have rejected the request for approving the promotion on the ground that the petitioner had not undergone M.Sc., Maths after obtaining prior permission from the authorities.

2. The petitioner herein, who was working as a B.T Assistant has been promoted as P.G Assistant (Maths) Teacher in the third respondent School with effect from 01.07.2022 and the same has been sent for approval to the second respondent. The second respondent in the impugned order has rejected the same on the sole ground that the petitioner has undergone P.G course without obtaining prior permission from the authorities concerned.



3. The Hon'ble Division Bench of this Court in ***W.A(MD)No.1124 of 2023, dated 24.07.2023 [The Joint Director of School Education, (Higher Secondary), College Road, Chennai-6 and Others Vs. S.Vasugi and Another]*** in paragraph No.3 while considering the grant of incentive increment for higher qualification has held as follows:

"3.It is true that there are several Government Order which have insisted the requirement of permission of the educational authorities for a teacher to undergo higher education. It is to be noted that the payment of incentive increment for acquiring higher qualification is to encourage the teachers to acquire higher qualification so that the quality of education will be higher. It may be true that the teacher while in service will have to obtain prior permission as per the Government Orders. Further it is to be noted that acquiring higher qualification while in service is not prohibited and it is only regulated. In such circumstances, acquiring higher qualification while in service without the permission is only an irregularity and that will not entitle the respondents to reject the benefit to the teachers."

4. In view of the Hon'ble Division Bench judgment, it is clear that any degree obtained while in service without obtaining prior permission of the authorities could only be considered to be irregular and it will not invalidate the



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degree. Therefore, the order impugned in the writ petition is set aside. The matter is remitted back to the file of the second respondent herein. The second respondent is directed to forward the same to the first respondent for approving the promotion of the writ petitioner as P.G Assistant (Maths) Teacher. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

5. 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.

21.12.2023

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

To

- 1.The Chief Educational Officer,
Thoothukudi District,
Thoothukudi.
- 2.The District Educational Officer,
Thoothukudi District,
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R.VIJAYAKUMAR, J.

BTR

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