



WP.No.288



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2024

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THE HONOURABLE MR.JUSTICE BATTU DEVANAND

WP.No.2884 of 2024
and WMP.No.3126 of 2024

Mrs.J.Arul Punitha

... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep by its Principal Secretary
Department of School Education,
Fort St.George, Chennai – 9.

2.The Director of School Education
DPI Campus, College Road,
Chennai – 6.

3.The District Educational Officer, (Elementary & Anglo Indian)
The Office of the District Educational Officer
Triplicane, Chennai – 5.

4.The Correspondent
St.Francis Anglo-Indian Girls High School
1591, Trichy Road,
Coimbatore – 641 018.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of writ of Mandamus directing the respondents 1 to 3 to issue orders to approve the appointment of the petitioner, Mrs.J.Arul Punitha, working as BT.Asst (Science) in the 4th respondent St.Francis Anglo-Indian Girls' High School, 1591, Trichy Road, Coimbatore – 641 018, w.e.f. 25.11.2019, and release salary, with all



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service and monetary benefits.

For Petitioner

: Fr.Xavier Arulraj, Sr.Counsel
for Father Xavier Associates

For respondents : Mr.V.Manoharan, AGP (Education)
for R1 to R3.

ORDER

This writ petition is filed seeking a writ of mandamus to direct the respondents 1 to 3 to issue orders to approve the appointment of the petitioner who has been working as B.T. Assistant (Science) in 4th respondent school, w.e.f. 25.11.2019 and to release salary with all service and monetary benefits, in the interest of justice.

2. Heard the learned Senior counsel for the petitioner and the learned Additional Government Pleader for the respondents 1 to 3.

3. In view of the order to be passed by this Court which will not affect the interest of the fourth respondent, notice to fourth respondent is dispensed with.

4. With consent of both parties, this writ petition is disposed of at the stage of admission.

5. The case of the petitioner is that she was appointed as B.T. Assistant (Science) in the 4th respondent school by the 4th respondent in the vacancy arising out of the retirement of one Mrs.Mary Agnes as Middle Grade Assistant on 31.05.2018, prior to the said appointment, the 4th respondent submitted a proposal to the 3rd



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respondent on 07.08.2019 requesting upgradation of the Middle Grade Assistant post into B.T. Assistant (Science) to teach science subject to the students. The said post is a regular sanctioned post with Grant-in-Aid from the Government. The staff fixation for the academic years 2018-2019 till date, clearly reveal the eligibility for the said post from the records issued by the competent authorities. The staff fixation for the academic years 2022-2023 and 2023-2024 are yet to be issued.

6. The petitioner joined the 4th respondent school as B.T. Assistant (Science) w.e.f. 25.11.2019, the petitioner has completed her TET eligibility in the year 2023. The 4th respondent has submitted proposal of the appointment of the petitioner as B.T. Assistant (Science) w.e.f. 25.11.2019 to the 3rd respondent for approval on 25.11.2019. The 4th respondent once again submitted representation to the 3rd respondent on 13.09.2021 requesting for upgradation of Middle Grade Assistant Post into B.T. Assistant (Science) post. The 3rd respondent in his proceedings dated 05.02.2021 in Na.Ka.No.928/A2/2021 returned the proposal for approval raising certain queries and requested approval to the appointment of the petitioner. The Chief Education Officer, Coimbatore vide proceedings dated in Na.Ka.No.015284/A2/2022 returned the proposal raising certain other queries. The 4th respondent by the letter dated 20.07.2022 complied with the queries and requested approval to the appointment of the petitioner. The 4th respondent again submitted a representation dated 09.01.2023 to the 3rd respondent requesting approval.



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7. Aggrieved by the inaction of the respondents in granting approval to the appointment of the petitioner, the petitioner is constrained to file the present writ petition.

8. The learned Senior Counsel appearing for the petitioner submitted that the petitioner and the 4th respondent have made personal pleading to the respondents requesting approval of the petitioner appointment. Though there is no surplus B.T. Assistant (Science) post in the 4th respondent school till date, the appointment of the petitioner is not approved. The petitioner is working without salary. The learned counsel further submits that a batch of cases regarding appointment, approval and deployment was decided by the Division Bench of the Madurai Bench of the Madras High Court in ***WA.(MD).No.76 of 2019 dated 31.03.2021***. As per the said order, GO.MS.No.165 was declared as inoperative, as the authorities has approved the request of the petitioner without any further delay.

9. The learned Senior Counsel for the petitioner would submit that if the appointment of the petitioner has not been approved by the competent authorities it would greatly affect not only the livelihood of the petitioner, but also impacts her performance, arising out of uncertainty of profession and the future. The learned counsel contends that inaction and failure to discharge the statutory duties on the part of the respondents is violative of Articles 14, 19(1)(g), 21 and 21A of the



Constitution of India and sought to allow the writ petition.

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10. Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that the proposal of the 4th respondent to accord approval for the appointment of the petitioner has been returned several times raising certain queries and now the said proposal is under consideration of the 3rd respondent and appropriate orders will be passed within the time stipulated by this Court.

11. Having heard the submissions of the learned Senior counsel appearing for the petitioner and the learned Additional Government Pleader and upon careful perusal of the materials available on record, it is an undisputed fact that the petitioner was appointed as B.T. Assistant (Science) by the 4th respondent in the regular sanctioned post with Grant-in-Aid from the Government. The petitioner is working as B.T. Assistant (Science) in the 4th respondent school w.e.f. 25.11.2019. The 4th respondent has sent a proposal seeking approval of the petitioner appointment as B.T. Assistant (Science) on 25.11.2019. It appears, the 4th respondent has complied with certain queries raised by the 3rd respondent and the Chief Educational Officer, Coimbatore. Now the proposal is pending with the respondents, though several reminders were sent to the 3rd respondent by the 4th respondent, till now no orders have been passed on the proposal sent by the 4th respondent.



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12. Considering the facts and circumstances of the case, it appears the 3rd respondent without any reasonable cause, has withheld the proposal sent by the 4th respondent without granting approval as sought by the fourth respondent which is impermissible under law. Due to the delay in granting approval for the appointment made by the 4th respondent in favour of the petitioner in the sanctioned post, not only the petitioner, the entire family of the petitioner has to suffer and she could not get any salary. The petitioner could not attend day to day needs of the family and expenditure to be incurred for the education of her children and any medical expenditure required for the family members. As such, without considering all these aspects, keeping the proposal pending by the third respondent, in my considered opinion is nothing but violating the "right of life" to the petitioner and her family, which is guaranteed under Article 21 of the Constitution of India.

13. Under these circumstances, in my considered view, it is reasonable and appropriate to direct the 3rd respondent to take decision and pass orders in accordance with law on the proposal sent by the 4th respondent forthwith to meet the interest of justice.

14. Accordingly, this writ petition is allowed by directing the 3rd respondent to



take decision and pass orders on the proposal sent by the 4th respondent to approve the appointment of the petitioner as B.T. Assistant (Science) within a period of one week from today.

15. Consequently, connected miscellaneous petition is closed.

16. There shall be no order as to costs.

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Index : Yes/No

Neutral Citation : Yes/No

Note : Issue order copy by 12.02.2024.

To

1.The Government of Tamil Nadu
Rep by its Principal Secretary
Department of School Education,
Fort St.George, Chennai – 9.

2.The Director of School Education
DPI Campus, College Road,
Chennai – 6.

3.The District Educational Officer, (Elementary & Anglo Indian)
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