



WP.No.21880 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.21880 of 2015

and M.P.No.1 of 2015

A.Basil Sevamary

...Petitioners

Vs.

- 1.The Union Territory of Puducherry,
by its Commissioner-cum-Secretary,
Department of Education,
Secretariat, Puducherry-605001
- 2.The Director of School Education,
Government of Puducherry,
Directorate of School Education,
Puducherry-605 005
- 3.The Senior Accounts Officer,
Government of Puducherry,
Directorate of School Education,
Puducherry-605 005
- 4.The Chief Educational Officer,



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Karaikal

Puducherry

5.The Correspondent

St.Theresa's Government Adided High School,
Kurumbagaram- 609 603,
Karaikal, Puducherry

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of writ of Mandamus, directing the respondents to accord approval to the appointment of the petitioner Miss.A.Basil Selvamary, working at St.Theresa's Govt. Aided High School, Kurumbagaram, Karaikal, Puducherry- 609 603, w.e.f. 11.03.2014, as per G.O.Ms.No.86 dated 21.07.2006, on the file of the 1st respondent, with all service and monetary benefits.

For Petitioners : Dr.Fr.A.Xavier Arulraj

For Respondents : Mr.Syed Mustaffah

Government Advocate (Pondy)

for R1 to R4

ORDER

The petitioner herein was appointed as Music Teacher on 04.06.2012 in 5th respondent's School in terms of G.O.Ms.No.86 of Chief Secretariat (Education) dated 21.07.2006. The 5th respondent also



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claimed to have submitted proposals seeking approval of the appointment of the petitioner through proposal dated 20.06.2012 with effect from 29.03.2012. But the said proposal is stated to be still pending for consideration before the 2nd respondent. Hence, the petitioner approached this Court by filing the present writ petition seeking a writ of mandamus.

2. When the matter is taken up for consideration today, it is brought to the notice of this Court by learned counsel for the petitioner that the issue that arise for consideration in this writ petition is covered by an order passed by the learned Division Bench of this Court in W.A.Nos.2842 of 2018 and Batch dated 30.04.2024 and a copy of the same is also placed before this Court. The said contention is also not disputed by the learned counsel appearing for the respondents. This Court has carefully perused the said order passed by the learned Division Bench. The learned Division Bench, in all framed three questions, in the said decision which reads as under:-



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(a) Whether the Rules 2010 of NCTE framed under the Act 2009 would apply to a minority institution both aided and unaided ?

(b) If the Rules are applicable to aided minority institution, whether the 2010 Rules would be applicable to the teachers appointed prior to its notification ?

(c) Whether the authority under the Recruitment Rules would have power to relax the age and qualification ?

3.The question (a) above was answered saying that Rules 2020 issued by NCTE under Right of Children to Free and Compulsory Education Act, 2009 would apply minority institutions both aided and unaided at paragraph No.32 which reads as under:

"32. In the light of the pronouncement of law by the Hon'ble Apex Court in the aforesaid judgments, the minority educational institutions both aided and unaided are bound to follow the Regulations framed by the NCTE under its enactment prescribing qualification of the Teachers."



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4.While answering (b) the Division Bench held that as under:

44. In such an event, we are of the considered view that the Teachers who are recruited only after the year 2014 in any school including the minority (aided and unaided) should have to fulfill the essential qualification of TET. It is also made clear that the Teachers appointed prior to 2014 would have to necessarily satisfy the qualifications prescribed by the NCTE under its Regulation, 2001. If the Teachers do not possess the qualification as prescribed under the Regulation, 2001 their appointment cannot be a valid one.

5.While answering the question (C), the learned Division Bench held as under:

46. Hence, the relaxation that is claimed under Rule 6 of the Recruitment Rules cannot be exercised for grant of relaxation of the minimum qualification.

47. However, as regard to the relaxation of age, it is always open to the Authority under the



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Recruitment Rules to grant relaxation of age. But, the same should be made in conformity with Rule 6 of the Recruitment Rules by carving out a class of people who would be entitled for such relaxation.

6.The learned Division Bench has answered the questions as noted above disposed of the batch of writ petitions by issuing the following directions:

55. In view of the aforesaid discussions, we dispose of these batch of cases in W.A.Nos.2842, 2176, 2557, 2848, 2040 of 2018 & 768, 873 of 2019 and 125 of 2021 and W.P.Nos.10371 to 10374 of 2014 & 12940 to 12942 of 2015 & 21850 to 21854 of 2015 & 22129 & 22130 of 2015 and 27170 to 27173 & 21062 of 2015 with the following directions:

(a) The Authority is directed to consider the application for grant of approval submitted by the respective Managements and pass appropriate orders within a period of three (3) months from the date of receipt of a copy of this order.



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(b) While carrying out such exercises, the cases in which the appointed Teachers have either resigned or superannuated need not be considered for grant of approval.

(c) While considering the approval of teachers who are appointed after 2001 but before 16.12.2014 they shall necessarily fulfill the qualifications prescribed under the Schedule to Regulations, 2001."

7. In the light of the above order passed by the learned Division Bench as noted above, the 2nd respondent is under obligation to consider the proposals dated 20.06.2012 submitted by the 5th respondent seeking approval of the appointment of the petitioner as Music Teacher.

8. In the circumstances, the writ petition is disposed of directing the 2nd respondent to consider the proposal submitted by the 5th respondent seeking approval of the appointment of the petitioner as Music Teacher of 5th respondent School as expeditiously as possible at any rate within a period of two months from the date of receipt of a copy



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of this order.

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9. With the above direction, the writ petition stands disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

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vsn



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MUMMINENI SUDHEER KUMAR,J.

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