



W.P.No.5768 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.5768 of 2022

and

W.M.P.Nos.16743, 5855, 5856 & 5858 of 2022

A.N.M.Middle School,
Pallipalayam,
Devanampattu Post,
Minjur Block,
Thiruvallur District,
Rep. by its Correspondent,
K.Shanmugam, S/o.Kumaravel

..... Petitioner

Vs

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.

2. The Chief Educational Officer,
Thiruvallur District,
Thiruvallur.

3. The District Educational Officer,
Ponneri Educational District,
Thiruvallur District.

4. The Block Educational Officer-II,
Minjur Block,
Thiruvallur District.

..... Respondents



W.P.No.5768 of 2022

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the third respondent in Na.Ka.No.1021/Aa2/2019 dated 17.08.2020 and to quash the same and consequently directing the respondents to pass orders granting approval of appointment of Tmt.P.Selvi in the post of B.T.Assistant (Maths) in the petitioner School from the date of appointment on 27.02.2019 based on the proposal forwarded by the petitioner School dated 27.02.2019, with all consequential and other attendant benefits including arrears of salary along with interest for delay in payment, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran
Senior Counsel
for Mr.G.R.Ramesh Prabbhu

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the proceedings issued by the third respondent dated 17.08.2020, thereby rejected the proposal sent by the petitioner for approval of the appointment of Tmt.P.Selvi in the post of B.T.Assistant (Maths).

2. Heard the learned counsel appearing on either side and perused the materials available on record.



W.P.No.5768 of 2022

3. The petitioner School is a recognized School under the provision of Tamil Nadu Recognized Private Schools (Regulation) Act, 1973.

It is a Government aided School. A vacancy to the post of Secondary Grade Teacher arose on 03.09.2018 due to promotion of incumbent of Tmt.R.Tamil Ilakkiya as B.T.Assistsant (English). In the said circumstances, the petitioner School forwarded the proposal for upgrading the post of Secondary Grade Teacher as B.T.Assistant (Maths) and seeking permission to fill up the post as per the conditions. It was permitted by the second respondent. Accordingly, the petitioner had appointed one Tmt.P.Selvi as B.T.Assistant (Maths) by an order dated 27.02.2019. After her appointment, the petitioner had forwarded the proposal for approval of her appointment in the post of B.T.Assistant (Maths) with effect from 27.02.2019. It was kept pending for a long period and as such, the petitioner approached this Court by way of writ petition in W.P.No.5130 of 2020 and this Court, by an order dated 28.02.2020, directed the third respondent to pass appropriate orders on the proposal sent by the petitioner School. Thereafter, the third respondent, by an order dated 17.08.2020, rejected the proposal sent by the petitioner School for approval for the post of B.T. Assistant (Maths) with effect from 27.02.2019.



W.P.No.5768 of 2022

4. The learned Senior Counsel appearing for the petitioner would submit that the appointment of B.T.Assistant (Science) teacher was made only after the proposal was forwarded by the petitioner School dated 14.02.2018 and the third respondent issued orders thereby upgraded the post of Secondary Grade Teacher as B.T.Assistant (Maths) and granted permission to fill up the post as per the conditions as per Roster prescribed under G.O.Ms.No.55, dated 08.04.2010. As per the Government Order in G.O.Ms.No.55, dated 08.04.2010, the vacancies arising on and from 29.04.2009, shall be fixed as per Schedule III and all selection for appointment shall afresh from S.No.1 in Schedule III with effect from on and from the said date.

5. The appointment of B.T.Assistant (Maths) teacher was made in the vacancy which arose on 03.09.2018, i.e., after the cut off date 29.04.2009. The appointment in respect of Tmt.R.Tamil Ilakkiya was made on 03.09.2018 as P.G.Assistant (English) in the vacancy arose prior to the cut off date on 29.04.2009. The cut off date refers to the date of vacancy and not to the date of appointment and in view of the same the Department has already granted permission to the petitioner School to fill up the post of B.T.Assistant (Maths) in the vacancy arising on 03.09.2018.



W.P.No.5768 of 2022

6. The learned Senior Counsel also relied upon the Judgment of this Court in W.P.No.28058 of 2017 dated 29.01.2019 as per G.O.Ms.No.55, dated 08.04.2010 the effect was given from 29.04.2009 and the proviso states that the Notifications, if any, already made by any of the recruiting agency on or after 15.09.2007 with reference to 200 point roster prescribed in G.O.Ms.No.241, Personnel and Administrative Reforms (K) Department, dated 29.10.2007, G.O.Ms.No.101, Personnel and Administrative Reforms (K) Department, dated 30.05.2008 and in G.O.Ms.No.206, Personnel and Administrative Reforms (K) Department, dated 06.11.2008 need not be reopened and for further recruitments, the revised roster prescribed in the Schedule III shall be continued from the last turn upto which the selection was already made.

7. A perusal of the counter filed by the fourth respondent and the submission made by Mrs.S.Mythreye Chandru, learned Special Government Pleader reveals that the proposal sent by the petitioner School for approval of appointment of Tmt.R.Tamil Ilakkiya in the post of B.T.Assistant (Maths) was rejected on the ground that the paper advertisement calling for application for the direct recruitment of Bachelor of Teaching Assistant not issued as per



W.P.No.5768 of 2022

G.O.Ms.No.44 (P and AR) Department. The Selection Committee was not constituted as per the provisions of Tamil Nadu Private School Regulation Act 1973. The selection was made in haste, within 20 days of issuance of notice, without following the due process of law. The roster system, as stipulated in G.O.Ms.No.55 (P and AR) Department, dated 08.04.2010, was not followed and the appointment was made in General Turn (G) Turn instead of Scheduled Caste Arunthathiyars (SCA) Turn. School Management has not called for Schedule Caste candidates list and if any such Scheduled Caste candidate is not available 'NIL' report was not received from Employment Exchange.

8. Further, G.O.Ms.No.55 (P and AR) Department, dated 08.04.2020 was issued modifying the present 100 points roster to 200 point roster. As per the revised roster, as referred in Schedule III to Rule 22-C, the roster commence from Sl.No.1 General Turn. Since the roster point of General Turn was already utilized the next Sl.No.2 (Arunthathiyars on preferential basis) has to be accommodated. The petitioner School had filled the said post in the roster point of General Turn. Further in the earlier occasion, one post of Secondary Grade Assistant was upgraded as B.T.Assistant (Maths) due to the relinquishment of the service of Secondary Grade Assistant by one D.Sukumar



W.P.No.5768 of 2022

with effect from 05.01.2010, one M.R.Krishnan was appointed as B.T.Assistant (Maths) in General Turn. Hence, the Communal turn has to be started fresh as stipulated in Schedule III to G.O.Ms.No.55 (P and AR) Department, dated 08.04.2020. Therefore, the third respondent rightly rejected the proposal sent by the petitioner for approval of appointment of Tmt.P.Selvi in the post of B.T.Assistant (Maths) and this Court finds no infirmity or illegality in the order passed by the third respondent. Thus, the writ petition is devoid of merits and is liable to be dismissed.

9. Accordingly, this Writ Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed. No costs.

23.02.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

To

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.



W.P.No.5768 of 2022

G.K.ILANTHIRAIYAN. J,

Lpp

WEB COPY

2. The Chief Educational Officer,
Thiruvallur District,
Thiruvallur.

3. The District Educational Officer,
Ponneri Educational District,
Thiruvallur District.

4. The Block Educational Officer-II,
Minjur Block,
Thiruvallur District.

W.P.No.5768 of 2022

and

W.M.P.Nos.16743, 5855, 5856 & 5858 of 2022

23.02.2024