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WP.No.12474 of 2024

In the High Court of Judicature at Madras

Dated : 23.10.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.12474 of 2024
& WMP.No.13631 of 2024

I.Kalaiselvi

...Petitioner

Vs

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

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

3.The District Educational
Officer, Nagapattinam,
Nagapattinam District.

4.The Block Development Officer,
Nagapattinam, Nagapattinam
District.

5.The Correspondent, TELC
Bishop Johnson Higher
Secondary School, Tranquebar,
Nagapattinam District-609313.

...Respondents

PETITION under Article 226 of The Constitution of India praying
for the issuance of a Writ of Certiorarified Mandamus to call for the
records relating to the impugned order of the 2nd respondent in O.Mu.



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No.1695/A2/20219 dated 20.2.2019, quash the same and consequently direct the respondents to approve the appointment of the petitioner in the post of B.T. Assistant (Maths) in the 5th respondent school from the date of appointment on 10.9.2018 with payment of salary and other service benefits.

For Petitioner	:	Mr.S.Nedunchezhiyan for Mr.T.Elumalai
For R1 to R4	:	Mrs.S.Mythreye Chandru, SGP
For R5	:	No appearance

ORDER

This writ petition has been filed challenging the proceedings of the second respondent dated 20.2.2019 and for a direction to the respondents to approve the appointment of the petitioner in the post of B.T. Assistant (Maths) in the fifth respondent school from the date of appointment i.e. on 10.9.2018 and to extend all the attendant benefits.

2. Heard the learned counsel appearing on behalf of the petitioner and the learned Special Government Pleader appearing for respondents 1 to 4. Though the fifth respondent is served and his name printed in the cause list, there is no representation on behalf of him either in person or through counsel.



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3. The case of the petitioner is as follows :

(i) The fifth respondent is a religious minority school. The petitioner was appointed as a B.T. Assistant (Maths) in the fifth respondent school in a vacancy that arose due to the retirement of an incumbent. The petitioner joined the post on 10.9.2018.

(ii) The fifth respondent school submitted the proposal to the second respondent through the third respondent. However, the second respondent rejected the proposal through the impugned proceedings dated 20.2.2019 on the ground that it was a surplus post and that therefore, the approval could not be granted. Aggrieved by that, the above writ petition has been filed.

4. The second respondent filed a counter, in which, he has taken a stand that there was no vacancy since one post of Secondary Grade Teacher was already found surplus and it was surrendered to the common pool maintained by the first respondent and that no approval can be granted to the appointment. Accordingly, the second respondent sought for dismissal of this writ petition.

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order.



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6. The case in hand is squarely covered by the common judgment of the Madurai Bench of this Court in the case of **Secretary to Government of Tamil Nadu, School Education Department, Fort St.George, Chennai-9 Vs. Iruthaya Amali [W.A.(MD) No.76 of 2019 etc. cases dated 31.3.2021]**, in which, the Division Bench issued series of directions and it was categorically held that G.O.Ms. No.165 dated 17.9.2019 cannot be given a retrospective effect so as to take away the sanctioned posts, which have already been granted to the institution. The said common judgment was followed subsequently in various cases where the approval was rejected by citing the same reason.

7. In the light of the above discussions, the impugned proceedings of the second respondent dated 20.2.2019 is hereby quashed. There shall be a direction to the fifth respondent school to resubmit the proposal to the second respondent through the third respondent. The second respondent shall deal with the proposal to be resubmitted and grant approval for the appointment subject to the petitioner fulfilling all the other requirements. It is made clear that the fifth respondent school is a minority school and that therefore, the second respondent cannot insist for the TET qualification. The entire process shall be completed within a period of six weeks from the date



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of receipt of a copy of this order. It goes without saying that once the approval is granted, the petitioner will be entitled to all the service and monetary benefits.

8. In the result, the writ petition is allowed with the above directions. No costs. Consequently, the connected WMP is closed.

23.10.2024

To

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