



WEB COPY

W.P.No.15588 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.15588 of 2021
and W.M.P.Nos.16509 & 16510 of 2021

The Correspondent,
C.S.I. High School,
167, Kamarajaranar Road,
Attur 636 102.

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep by its Secretary,
Department of School Education,
Fort St. George, Chennai 600 009.
- 2.The Director of School Education,
College Road, Chennai 600 006.
- 3.The Chief Educational Officer,
District Collectorate Compound,
Salem 636 001.
- 4.The District Educational Officer,
Attur 636 102, Salem District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders passed by the third respondent, Chief Educational



Officer and 4th respondent, District Educational Officer, in O.Mu.No.2641/Aa2/2020 dated 04.12.2020 (as signed) and O.Mu.No.3061/Aa2/2020 dated 26.12.2020 (as signed), quash the same and further to direct the respondents 3 and 4 to approve the appointment of Mrs.M.Kalpana Grace as BT Assistant (Science) in the petitioner school with effect from the date of her appointment viz., 06.03.2020 and release salary and all attendant benefits with effect from the said date.

For Petitioner : Ms.Mary Sowmi Rexi
for M/s.Issac Chambers

For Respondents : Ms.Akila Rajendran, GA

ORDER

This Writ Petition has been filed for quashment of the impugned orders passed by the third respondent in O.Mu.No.2641/Aa2/2020 dated 04.12.2020 and 4th respondent in O.Mu.No.3061/Aa2/2020 dated 26.12.2020 and consequently, to direct the respondents 3 and 4 to approve the appointment of Mrs.M.Kalpana Grace as BT Assistant (Science) in the petitioner school with effect from the date of her appointment viz., 06.03.2020 and release salary and all attendant benefits with effect from the said date.

2. Heard the learned counsel on both sides and perused the materials



available on record.

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3. The case of the petitioner is that, in the petitioner School, out of 5 posts of BT Assistants, one post fell vacant due to the retirement of then incumbent Mrs.A.Jayarani Rosebell on 31.05.2015. In the resultant vacancy, the School appointed one Mrs.M.Kalpana Grace as BT Assistant (Science) with effect from 06.03.2020. The concerned teacher also joined service on the same day i.e., 06.03.2020 and is continuing till date.

4. The petitioner School submitted the necessary proposal to the 4th respondent for approval of her appointment for the purpose of disbursement of grant-in-aid towards her salary. The said proposal was returned by the 4th respondent vide his proceedings in O.Mu.No.2641/Aa2/2020 dated 04.12.2020 stating that as per the Government Order in G.O.Ms.No.165, School Education Department, dated 17.09.2019, until deployment of excess staff working under corporate management/ other management is made, new appointments cannot be made and approval for new appointments will not be given.

5. The petitioner resubmitted a proposal dated 15.12.2020 to the 4th respondent and the said proposal was also returned stating the same reason.



The Government Order in G.O.Ms.No.165 dated 17.09.2019 which referred in the impugned proceedings of the 4th respondent is inoperative. Hence, the refusal of the 4th respondent to grant approval for the appointment of the BT Assistant is unsustainable and the same requires interference of this Court.

6. The learned counsel for the petitioner submitted that the reason given in the impugned order is unsustainable, in view of the subsequent order of the Hon'ble Division Bench of this Court in W.A.(MD).No.76 of 2019, dated 31.03.2021. In the said order, this Court has held that G.O.Ms.No.165, School Education Department, dated 17.09.2019, as inoperative. Thereafter, a SLP has also been filed against the order of the Hon'ble Division Bench of this Court in SLP.No.15702 of 2021 and the same was also closed. Hence, the petitioner has filed the present petition seeking quashment of the impugned orders passed by the 4th respondent.

7. The learned Government Advocate appearing for the respondents submitted that at the time of appointment, there are surplus teachers in the same management and despite a surplus teacher, the petitioner's School appointed the petitioner and in view of the same, the impugned order of



rejection is valid and prayed for dismissal of this petition.

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8. It is not necessary for this Court to go into the merits of the case, since the entire issue is focused on the applicability of G.O.Ms.No.165, dated 17.09.2019. The Hon'ble Division Bench of this Court in W.A.(MD).Nos.76 etc., of 20119 has considered the issue in detail and passed the final orders on 31.03.2021. The Hon'ble Division Bench has also declared that G.O.Ms.No.165, dated 17.09.2019 is declared to be inoperative. In view of the same, the very basis on which the impugned orders have been passed by the 4th respondent on 04.12.2020 and 26.12.2020, become unsustainable. Thereafter, a SLP has been filed against the order of the Hon'ble Division Bench of this Court in SLP.No.15702 of 2021 and the same was also closed.

9. For the above discussion, the impugned orders passed by the third respondent in O.Mu.No.2641/Aa2/2020 dated 04.12.2020 and 4th respondent in O.Mu.No.3061/Aa2/2020 dated 26.12.2020, are hereby quashed. The concerned respondents are directed to approve the appointment of Mrs.M.Kalpana Grace as BT Assistant (Science) in the petitioner's School, if she is otherwise eligible and pass orders, in the light of the guidelines issued



by the Hon'ble Division Bench of this Court in W.A.(MD).No.76 etc., of 2019, dated 31.03.2021 within a period of twelve weeks from the date of receipt of a copy of this order.

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10. This Writ Petition is allowed with the above direction. No costs.

Consequently, connected Miscellaneous Petitions are closed.

21.11.2024

vr

Index : Yes / No

Speaking order / Non-speaking order

To

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