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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

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THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.18150 of 2021
and WMP.No.19373 of 2021

A.Charlet Grace Rebecca

... Petitioner

Vs

1.The Commissioner of School Education,
DPI Campus, College Road,
Chennai – 600 006.

2.The Chief Educational Officer,
Chennai District,
Egmore, Chennai – 600 008.

3.The District Educational Officer,
Chennai North Educational District,
Sidco Nagar, Villivakkam,
Chennai – 600 049.

4.The Correspondent,
Park Town Mission High School,
42, Ponnappa Chetty Street,
Park Town,
Chennai – 600 003.

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pass orders for granting approval of appointment of petitioner in the sanctioned post of B.T.Assistant (Maths) in the 4th respondent school from the date of appointment on 16.11.2016 as per staff fixation order for the year 2016-2017, based on the proposal submitted by the 4th respondent school dated 10.05.2017 and resubmitted on 27.02.2018 with all consequential and other attendant benefits, including the arrears of salary to the petitioner from the date of initial appointment on 16.11.2016, along with interest within a time frame to be fixed by this Court.

For Petitioner : Mr.P.Murali
for M/s.D.Maharaja
For Respondents : Mr.K.H.Ravikumar
Government Advocate

ORDER

The petitioner herein was appointed as B.T.Assistant (Maths) by the 4th respondent in Park Town Mission High School by order dated 16.11.2016. The said vacancy in the post of B.T.Assistant (Maths) arose due to the retirement of incumbent Tmt.A.Lakshmi on VRS basis on 13.10.2016. Thereafter, the 4th respondent submitted a proposal on 14.03.2017 seeking approval of the appointment of the petitioner herein but the said proposal was returned by the 4th respondent on 14.03.2017 and thereafter, once again, the



said proposal was resubmitted by the 4th respondent on 10.05.2017. Thereafter also, the said proposal was returned and finally the 4th respondent passed the impugned order refusing to grant approval of the appointment of the petitioner on the ground that there are surplus posts of B.T. Assistant (Maths) in the 4th respondent school during the academic year 2018-2019 and also on the ground that the petitioner does not possess the qualification of TET. Aggrieved by the said order dated 25.03.2019, the petitioner approached this Court by filing the present writ petition.

2. The learned counsel appearing for the petitioner contended that that the petitioner was appointed in the month of November 2016, when there was substantial strength of students. The respondent while passing the impugned order instead of the considering the strength of the school in the academic year 2016-2017, has erroneously considered the strength of the school during academic year 2018-2019. He also further contended that for the B.T Assistant (Maths) working in the minority school, there is no necessity of possessing qualification of TET.



3. On the other hand, Mr.K.H.Ravikumar, learned Government Advocate submitted that the issue as to approval of the appointment made in the minority or non-minority schools came up before the Madurai Bench of this Court in W.A(MD).Nos.76 of 2019 and batch etc., and this Court by an order dated 31.03.2021 laid down the guidelines and the case of the petitioner has to be considered in the light of the said guidelines laid down.

4. This Court carefully considered the submissions made on either side and also perused the materials available on record.

5. There is no dispute that the petitioner was appointed as B.T Assistant (Maths) on 16.11.2016 and approval of her appointment was sought for by the 4th respondent school in the month of March 2017 and the same is pending consideration for some time and the impugned order came to be passed by taking into consideration the students strength during the academic year 2018-2019 though the petitioner was appointed in the year 2016.



6. According to the learned Government Advocate, there is no strength of students in the academic year 2016-2017 also and there were surplus post of B.T Assistant (Maths) available in the 4th respondent school.

7. Be that as it may, the 3rd respondent while considering the proposal submitted by the 4th respondent ought to have taken into consideration the circumstances that were prevailing during the academic year 2016-2017, such as availability of student strength, availability of the teaching staff etc., but the same appeared to have been not taken into consideration while issuing the impugned proceedings. Therefore, in the considered view of this Court, the matter is required to be remanded back to the 3rd respondent for reconsidering the proposal submitted by the 4th respondent by duly taking into consideration factual situation that was prevailing at the relevant point of time i.e., during the academic year 2016-2017.

8. In the light of the above, the impugned order dated 25.03.2019 is set aside and the matter is remanded back to the 3rd respondent for reconsidering the matter afresh in the light of the order passed by this Court in W.A(MD).Nos.76 of 2019 and batch etc., dated 31.03.2021 by duly taking



into consideration the observation made herein above. The 3rd respondent is directed to complete the entire exercise within a period of twelve weeks from the date of receipt of a copy of this order. The petitioner is granted liberty to submit the appropriate application before the 3rd respondent within a period of three weeks from the date of receipt of a copy of this order.

9. Accordingly, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

26.06.2024

Index : Yes/No
Speaking order / Non-speaking order
Neutral Citation Case : Yes/No



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MUMMINENI SUDHEER KUMAR. J.,

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