



W.P.No.33382 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.33382 of 2023

S.Vimala

... Petitioner

VS.

1. The Principle Education Officer,
District Principle Education Office,
Presidency Girls Higher Secondary School,
Kongu Reddy Street,
Egmore, Chennai.

2. The District Education Officer,
O/o.Central District Educational Office,
Thanda Nagar, Saidapet,
Chennai 600 015.

3. The Secretary,
Raja Muthaiya Higher Secondary School,
Raja Annamalaipuram, Chennai 600 028.

4.Kalaiselvan

... Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to consider petitioner's name for recruitment process of the post of P.G.Assistant in Physics at 3rd respondent School on merits in pursuant to the petitioner's



W.P.No.33382 of 2023

representation dated 06.11.2023 .

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For Petitioner : Mr.P.Muthamizhselvakumar
For R1 & R2 : Mrs.S.Mythreyechandru
Special Govt.Pleader
For R3 : Mr.D.Pandarinath
For R4 : Mr.V.Sivalingam

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to consider petitioner's name for recruitment process of the post of P.G.Assistant in Physics at 3rd respondent School on merits in pursuant to the petitioner's representation dated 06.11.2023 .

2. The case of the petitioner is that she completed her Course in M.Sc., (Physics) and M.A.(Philosophy) and B.Ed. At the time of final year training of the petitioner, one of the Physics Teacher was promoted as a Head Master of the third respondent school. Since one Secretary died, due to compensate the vacancy, the third respondent requested the petitioner to



W.P.No.33382 of 2023

continue as a physics teacher considering her teaching skill. Thereafter, the third respondent had forwarded the letter dated 10.06.2018 and 13.02.2019 to the second respondent seeking permission to fulfill the vacancy in the direct recruitment. As per the letter, the second respondent also forwarded the same as no objection to fulfill the posting and directed the third respondent to issue the no objection of the institution and forwarded the same to the first respondent with regard to the direct recruitment.

3. It is further case of the petitioner that as per the letter dated 19.02.2021 the first respondent forwarded the same for approval from the first and second respondent for appointment of one post of P.G.Assistant (Physics) for the recruitment of P.G.posting fulfill by the third respondent. On the other hand, the fourth respondent is one of the faculty working in the third respondent school, he also forwarded the application for the said posting, since from 2017 onwards, he had been employed as P.G. Teacher at the 3rd respondent school and achieved various academic awards and she was given 100% of result in the year of 2019, in which, the third respondent management had awarded to the petitioner. The petitioner was in maternity leave and given the application to consider the post of P.G.Assistant (Physics).



W.P.No.33382 of 2023

WEB COPY

4. It is also further case of the petitioner that the fourth respondent expressed his willing for the said post but the fourth respondent completed through correspondence course, the third respondent did not consider her letter dated 02.11.2023 and taking steps to consider the appointment of fourth respondent, the petitioner had forwarded the representation to the respondents dated 06.11.2023 to consider her application for the post of P.G.Assistant (Physics). Hence, the present writ petition has been filed .

5. The third respondent has filed a counter affidavit, wherein, it is stated that the petitioner is a qualified Post Graduate in Science (Physics) and did the Master of Philosophy (M.Phil.) and Bachelor of Education (B.Ed.) in the regular course are all factual and requires no merit. When the petitioner was at the training period, the physics teacher in the third respondent school one Mr.N.Srinivasan was promoted as Head Master, the petitioner had made a representation dated 15.05.2017 along with certificates and enclosed her bio-data to the third respondent for appointment of physics teacher. Based on the representation of the petitioner, the School Management by its letter dated 27.07.2017 had granted permission to appoint the petitioner as a non-Government Aided temporary Management staff in category II P.G. Teacher



W.P.No.33382 of 2023

in Physics with a fixed monthly consolidated salary of Rs.10,000/- . In that letter, it has clearly mentioned that the petitioner's representation will continue only on the basis of merit and ability and she has no any rights to claim the Government aided post in future.

6. It is also further stated that the proceedings of the first respondent dated 19.02.2021 forwarded the same for appointment of 1 posting of P.G.Physics after the necessary approval from the 1st and 2nd respondent the recruitment of P.G.posting fulfill by the third respondent and does not require any specific reply to the same. It is clearly admitted that the petitioner has also approached the third respondent and submitted her application for the appointment of the said post but the said application was denied by the third respondent because already there is an eligible Government staff candidate is available in the school itself and moreover the said posting is not a direct appointment for the petitioner to apply, since the petitioner is working as a management staff only and therefore she is not eligible to apply for the said post. The other staffs of the school management also forwarded the the no objection for direct recruitment of the said posting are strongly denied. Till date, there is no objection has been forwarded by the staff of the school management.



W.P.No.33382 of 2023

WEB COPY 7. It is further submitted that the fourth respondent is one of the faculty working in the third respondent school and he also forwarded the application for the said post are admitted. On 31.10.2023, the petitioner without informing earlier to the Management came to the office and submitted the leave letter for the petitioner's maternity period and left the school. As per the attendance record, the last working day of the petitioner is 31.01.2023 and till date there is no information has been received from the petitioner about the joining date of the school. Further, the fourth respondent has been promoted as the P.G.Assistant (Physics) and appointed for the said post. It is also informed by the school Management to the first and second respondents by its letter dated 03.11.2023 and in that letter it is clearly mentioned that the said appointment is subject to the approval of the Department of School Education, Tamilnadu, wherein the same has also been considered and appropriate orders have been passed by the Chief Educational Officer on 26.06.2024 and the same has been forwarded on 22.11.2024. Hence, this writ petition is liable to be dismissed.

8. The learned Special Government Pleader would submit that letter dated 27.07.2017 issued by the Gandhi Nagar Education Society stating that



W.P.No.33382 of 2023

the third respondent permitted to appoint the petitioner, a P.G.teacher in Physics as a temporary teaching staff of Higher Secondary classes with the consolidated pay of Rs.10,000/- with the following terms and conditions :-

1. She was appointed as a non-Govt.Aided Management staff in category II.
2. Her monthly consolidated salary is Rs.10,000/-
3. She has to do the works sincerely and to produce the centum result in XI and XII public exams.
4. Her appointment will continue only on the basis of merit and ability and she has to any rights to claim the Government aided post in future.

9. The learned Special Government Pleader would further submit that a letter issued by the third respondent dated 20.07.2017 to the petitioner, wherein it is stated that the petitioner was appointed as Physics Teacher to handle +1 and +2 classes from 01.07.2017 and that the said post is only temporary post and she will be paid a consolidated pay of Rs.10,000/- per month. Now, the school management promoted one Mr.Srinivasan as Head Master in the third respondent school due to vacancy of the said place, the fourth respondent is eligible for the said post and thereafter the fourth respondent was promoted as Post Graduate Teacher (Physics) on 14.03.2022 and the same was ratified After that, the third respondent has issued letter to



W.P.No.33382 of 2023

the first and second respondent for approval of the appointment of the said post. Thereafter, the second respondent was forwarded the same to the first respondent. The first respondent has issued proceedings bearing No.மு.மு.எண்.006026/அ3/2024 dated 20.11.2024 to the third respondent stating that the fourth respondent viz., Kalaiselvan was promoted for the post of Post Graduate Teacher (Physics) is approved and he is eligible for the post of P.G Teacher (Physics) scale.

10. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 and 2 and learned counsel for the third respondent and learned counsel for the fourth respondent.

11. On a perusal of the proceedings of the first respondent dated 26.10.2024 to the third respondent, it shows that One Mr.Srinivasan, who was working as a Post-Graduate (Physics) teacher at Raja Annamalaipuram, was promoted as the Head Master from 01.07.2016. Mr.K.Kalaiselvan, who is working as a graduate (science) teacher in the same school in the vacant post, has been promoted to post-graduate teacher (Physics) from 14.03.2022,



W.P.No.33382 of 2023

in the morning and for the appointment of promotion. The third respondent school management requested for approval of appointment has been sent by the District Education Officer. In the allotment report of the employees for 2022-23 and 2023-2024, only one vacant post of Post Graduate Teacher (Physics) for Higher secondary cadre is granted. On such one post is vacant place from 01.07.2015. Further, the fourth respondent is a fully qualified in the same post and he was appointed as per proceedings of the District Education Officer.

12. As per the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, Rule 15(4) of the above said Rules wherein it reads as under:-

(4) (i) Promotion shall be made on grounds of merit and ability, seniority being considered only when merit and ability are approximately equal.

(ii) Appointments to the various categories of teachers shall be made by the following methods: -

(i) Promotion among the qualified teachers in that school.

(ii) If no qualified and suitable candidate is available by method (i) above, -

(a) Appointment of other persons employed in that school, provided they are fully qualified to hold the post of teachers.



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W.P.No.33382 of 2023

- (b) Appointment of teachers from any other school.
- (c) Direct recruitment. In the case of appointment from any other school or by direct recruitment the School Committee shall obtain the prior permission of the District Educational Officer in respect of Pre-primary, Primary and Middle School and that of the Chief Educational Officer in respect of High Schools and Higher Secondary Schools, Teacher Training Institutions setting out the reasons for such appointment. In respect of corporate body running more than one school, the schools under that body shall be treated as one unit for purpose of this rule.
- (d) Appointment to the post of Headmaster of Higher Secondary School shall be made by the method specified in clause (ii) either from the category of Headmasters of High Schools or Teachers' Training Institutes or from the category of Post-Graduate Assistants in academic subjects or Post-Graduate Assistants in Languages provided they possess the prescribed qualifications.]

13. In view of the above said instructions received and counter filed by the respondent, this Court is of the view that the petitioner was appointed as a management staff and she is not a regular teacher and her appointment was also not been considered by the Educational Authority for regulation of



W.P.No.33382 of 2023

the appointment of the petitioner and in the absence of any other evidence to show that she is a regular teacher and this Court is not inclined to interfere with the decision taken by the Management wherein the school has considered the said appointment and appointed another person and the said teacher now appointed has already been ratified by the Government. The appointment order has been confirmed as per the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974. Hence, this Court is of the view that there is no mistake committed by the management in appointing the fourth respondent and the petitioner cannot claim rights since the appointment order itself, it is clearly stated that she is not appointed on regular basis but only on the consolidated basis and she is working as a management staff.

17. This writ petition stands dismissed with the above observations.

No costs.

04.12.2024

Index : Yes/No

Internet : Yes/No

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To



W.P.No.33382 of 2023

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W.P.No.33382 of 2023

V.BHAVANI SUBBAROYAN, J.
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W.P.No.33382 of 2023

04.12.2024