



W.P.(MD).No.216 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.216 of 2024

and

W.M.P(MD) Nos.234 and 235 of 2024

P.Yogaraj

... Petitioner

Vs.

1. The Chief Educational Officer,
Dindigul District.

2. The District Educational Officer, (Secondary),
Dindigul District.

3. The Correspondent,
St.Antony Higher Secondary School,
Kosavapatti,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 2nd respondent in his proceedings in Na.Ka.No.6052/A3/2020 dated 28.12.2023 quash the same and direct the respondents to approve the appointment of the petitioner as B.T.Assistant (English) with effect from 28.06.2023 and to release the salary with all consequential monetary benefits.



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For Petitioner : Mr.V.Panneer Selvam
For R1 and R2 : Mr.N.Satheesh Kumar
Additional Government Pleader
For R3 : Mr.S.Savarimuthu
For M/s.Father Xavier Associates

ORDER

The instant Writ Petition has been filed by a B.T.Assistant (English) appointed in the third respondent School, challenging the order passed by the second respondent on 28.12.2023, wherein the proposal forwarded by the Management for approval of his appointment has been rejected.

2. A perusal of the impugned order reveals that the proposal forwarded by the Management on 23.11.2023 has been rejected on the following grounds:

- (a) G.O.(Ms) No.165, School Education Department, dated 17.09.2019 has not been complied with;
- (b) W.A.No.76 of 2019 is pending; and
- (c) Prior permission has not been obtained for up-gradation of Secondary Grade Teacher post to that of B.T.Assistant.



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3. According to the learned counsel appearing for the writ petitioner, G.O(Ms) No. 165 is not in force and W.A.No.76 of 2019 has already been disposed of. He further contended that the present School is having strength of more than 1400 students and therefore, there are no surplus teachers in the instant School. In such circumstances, the up-gradation of Secondary Grade Teacher post to that of B.T Assistant Teacher post is automatic and no prior permission is called for.

4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 and 2 relying upon his counter had contended that the respondent School is being run by a Corporate Management and in case, if there are any surplus teachers within the Corporate Management the up-gradation of Secondary Grade Teacher post to that of B.T.Assistant is not automatic and in such circumstances prior permission is required. Therefore, he prayed for sustaining the order passed by the authorities.

5. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.



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6. As rightly contended by the learned counsel appearing for the petitioner G.O.(Ms) No.165, School Education Department, dated 17.09.2019 has been held to be unenforceable by the Hon'ble Division Bench of this Court. That apart, W.A.No.76 of 2019 has already been disposed of on 31.03.2021. A perusal of the staff fixation order for the academic year 2022 – 2023 reveals that the School is having students strength of more than 1400 and in such circumstances there are no surplus B.T.Assistant (English) in the third respondent School. Therefore, whenever the permanent vacancies arises in the post of Secondary Grade Teacher for the class 6 to 8, the up-gradation as B.T.Assistant is automatic and no prior permission is called for.

7. In view of the above said deliberations, the order impugned in the writ petition is set aside and the second respondent is directed to forward the papers to the first respondent within a period of four weeks from the date of receipt of a copy of this order. The first respondent is directed to pass orders approving the appointment of the writ petitioner with effect from 28.06.2023 with all attendant benefits within a period of eight weeks thereafter.



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8. With the above said observations, this Writ Petition stands allowed.

There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Chief Educational Officer,
Dindigul District.
2. The District Educational Officer, (Secondary),
Dindigul District.
3. The Correspondent,
St.Antony Higher Secondary School,
Kosavapatti,
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