



W.P.(MD)No.712 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2024

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THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.712 of 2024

and

W.M.P.(MD)No.713 of 2024

Correspondent,
Sourashtra Boys Higher Secondary School,
110, Kamarajar Salai,
Madurai-625 009,
Madurai District.

... Petitioner

Vs.

1.The State 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-600 009.

3.The Chief Educational Officer,
Madurai, Madurai District.

4.The District Educational Officer,
(Secondary Education),
Melur-625 106, Madurai District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceeding issued by the 4th respondent DEO in O.Mu.No. 964/A1/2020 dated ---.11.2020 quash the same, further direct the 1st respondent, Chief Educational Officer herein to approve forthwith the appointment of N.Savitha Devi as Drawing Teacher in the petitioners school from the date of her appointment i.e., 01.03.2019 and disburse the grant - in - aid towards her salary with all attendant benefits with effect from the said date.

For Petitioner : Ms.A.Amala

For Respondents : Mr.T.Amjadkhan

Government Advocate

ORDER

This writ petition has been filed challenging the order dated Nil.11.2020, by which the petitioner's order appointing a Drawing Teacher namely, Savitha Devi with effect from 01.03.2019 was rejected and for a consequential direction to the first respondent to approve the said appointment.

2. Heard Ms.A.Amala, learned counsel appearing for the petitioner, Mr.T.Amjad Khan, learned Government Advocate for the respondents.



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3.In the petitioner School, the incumbent namely, S.Krishnamoorthy, who was working as a Drawing Teacher, retired from service on 28.02.2019. Hence, to fill up the said vacant post, the School had appointed one Savitha Devi on 01.03.2019. Thereafter, the School sent a proposal to the fourth respondent seeking approval of the said appointment. But the same was rejected on the ground that the post against which, the individual was appointed is a surplus post. Challenging the same, the petitioner is before this Court.

4.The learned counsel for the petitioner submitted that even though the post, in which the incumbent was appointed, was declared as surplus during the academic year 2018-19, subsequent to the petitioner's objection for the said fixation, the original staff position was restored and the same was reflected in the staff fixation made for the year 2019-20 sanctioning the post of Drawing Teacher. Hence, the petitioner has appointed one Savitha Devi in the vacant post caused due to the retirement of the previous incumbent, namely Krishnamoorthy. Hence, the rejection of appointment made by the petitioner School is illegal.



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5.The learned Government Advocate for the respondents submitted the post, which became vacant in the petitioner School due to the retirement of one S.Krishnamoorthy, was held as surplus by the staff fixation statement for the year 2018-19. Hence, on the retirement of the said incumbent, the post ought to have been considered as a surrender post and the petitioner School cannot appoint anyone in the said post without getting necessary sanction from the Government for the same.

6.It is learnt from the records that the incumbent was appointed with effect from 01.03.2019 and though the post of Drawing Teacher was held as surplus by the Staff fixation statement for the year 2018-19, the sanction for the said post was restored with effect from 01.08.2019.

7.Since the Staff fixation regarding the Drawing Teacher is restored from 01.08.2019, the respondent shall give approval for the appointment made by the petitioner School with effect from 01.08.2019. Instead, the respondents cannot abruptly reject the request for approval of such appointment and the approval order ought to have been given atleast from the date from which the post was sanctioned that is from 01.08.2019.



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8.In view of the aforesaid reasons, the petitioner School is directed to resubmit the proposal seeking approval of the appointment of one Savitha Devi as a Drawing Teacher, forthwith. On receipt of the same, the respondent shall consider and grant approval for the said appointment atleast with effect from 01.08.2019. For the period from 01.03.2019 to 31.07.2019, it is for the petitioner School to take a decision in accordance with the Rules in force.

9.This writ petition is allowed on the aforesaid terms. No costs.
Consequently, connected miscellaneous petition is closed.

02.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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To

- 1.The Secretary,
Department of School Education,
Fort St.George, Chennai-600 009
- 2.The Director of School Education,
College Road, Chennai-600 009.
- 3.The Chief Educational Officer,



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Madurai, Madurai District.

R.N.MANJULA, J.

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4.The District Educational Officer,
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Melur-625 106, Madurai District.

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