



W.P.(MD)No.8572 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.8572 of 2024
and
WMP(MD)Nos.7810 & 7812 of 2024

P.Kanthimathi

... Petitioner

Vs.

1. The Director of Elementary School Education,
DPI Compound,
College Road,
Chennai.

2. The Chief Educational Officer,
O/o.The Chief Educational Officer,
Tenkasi,Tenkasi District.

3. The District Elementary Educational Officer,
O/o.The District Elementary Educational Officer,
Tenkasi District.

4. The Block Educational Officer-II,
O/o.The Block Educational Officer,
Vasudevanallur Range,
Tenkasi District.

5. T.D.T.A.Middle School,
Rep. by the Correspondent,



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Puliyangudi,
Kadayanallur Taluk,
Tenkasi District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in O.Mu.No. 3352/A1/2023 dated 15.12.2023 on the file of the Respondent No.3 and quash the same as illegal and consequent direction directing the Respondents to approve the appointment of the Petitioner as B.T. Assistant (Maths) with effect from 18.11.2015 in the 5th Respondent School within the time stipulated by this Court.

For Petitioner : Mr.I.Pinaygash

For R1 to R4 : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.I.Pinaygash, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents 1 to 4.



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2. The petitioner who got appointed as BT Assistant (Maths) at the 5th respondent school on 18.11.2015 has filed this writ petition seeking to challenge the order dated 15.12.2023 of the third respondent in O.Mu.No.3352/A1/2023 and to direct the respondents to approve the appointment of the petitioner as BT Assistant (Maths) with effect from 18.11.2015.

3. Mr.I.Pinaygash, learned counsel for the petitioner submitted that the petitioner has been appointed as against the sanctioned vacancy and there was no surplus in the category of BT Assistant (Maths) during the relevant point of time and hence, the impugned order has been passed without considering the said fact. Attention was drawn to the staff fixation for petitioner school for the year 2017-2018. During the relevant point of time, the 5th respondent school has been sanctioned with one BT Assistant (Maths). Even in the impugned order itself, the said fact was not denied. However the only contention that was made by the learned counsel for the petitioner is that even though there is no surplus teachers in the 5th



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respondent school or the other schools coming under the corporate management of TDTA, Diocese of Tirunelveli. Hence there is no necessary to the 5th respondent to make a fresh appointment to fill up the vacancy by deploying the surplus teachers from any other schools. In the impugned order the following surplus have been given.

T.D.T.A. நிர்வாகத்தில் உபரி பணிபிடிக்கக் கூடிய பின்வருமாறு:-

ஆண்டு	உபரி ஆசிரியர் எண்ணிக்கை	உபரி ஆசிரியர்களின் ஒரளண்டு ஊதியம்
	25	9777917
2013 - 2014	40	18414136
2014 - 2015	38	16005883
2015 - 2016	36	14770506
2016 - 2017	46	27085947
2017 - 2018	25	14390694
2018 - 2019	17	10905576
2019 - 2020	15	9625059
2020 - 2021		
2021 - 2022		
2022 - 2023		

மேலும் சார்ந்த ஆசிரியர் நிபந்தனை பெற்று டி.என்.பி.யுக்கு, T.D.T.A. தடுதலைப்பள்ளியில் பணிபுரிக் நிர்வாகத்தின்படி உபரி பணிபிடிக்கக் கூடிய விபரம்.

2015 - 2016	ஜனாதிபதி ஆசிரியர்	1 உபரி
2016 - 2017	ஜனாதிபதி ஆசிரியர்	1 உபரி
2017 - 2018	ஜனாதிபதி ஆசிரியர்	2 உபரி
2018 - 2019	ஜனாதிபதி ஆசிரியர்	2 உபரி
2019 - 2020	ஜனாதிபதி ஆசிரியர்	1 உபரி
2020 - 2021	ஜனாதிபதி ஆசிரியர்	1 உபரி
2021 - 2022	பட்டதாரி ஆசிரியர் (கணிதம்)	1 காலிப்பணியிடம்
2022 - 2023	பட்டதாரி ஆசிரியர் (கணிதம்)	1 காலிப்பணியிடம்



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4. So far as the 5th respondent school is concerned, it is seen that the BT Assistant (Maths) post is declared to be vacant from the year 2021-22. Even in the impugned order, it is not shown that the BT Assistant post was surplus. Though the total number of surplus and whole vacancy in the TDTA management as shown in the above table, it is seen that any of those surplus pertains to the BT Assistant (Maths). In fact during the year 2017-2018 36 surplus teachers have been shown in the impugned order under the TDTA management. If one among the 36 surplus happens to be BT Assistant (Maths), the respondents would not have sanctioned one post of BT Assistant (Maths) for the 5th respondent school which also comes under TDTA management. So there cannot be any other explanation given with regard to the surplus position in view of the respondents' own act of according and sanctioning one BT Assistant (Maths) post during the academic year 2017-2018.



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5. However, the petitioner appears to have got appointed in the year 2015 which time there was no sanctioned post for BT Assistant (Maths). So, the petitioner cannot claim that the third respondent who accord approval even during the period where there was no sanction for post existed for BT Assistant (Maths) in the 5th respondent school. Since the impugned order has not taken into account of the fact that the BT Assistant (Maths) post was sanctioned in the year 2017-2018 and there is no surplus in the said post during the relevant point of time. I feel the impugned order is liable to be set aside. However, the petitioner cannot seek approval prior to the post sanctioned in the category of BT Assistant (Maths) in the 5th respondent school.

6. In the result, this writ petition is disposed of. No Costs. The impugned order passed by the third respondent in O.Mu.No. 3352/A1/2023 dated 15.12.2023 is set aside. The third respondent is directed to pass an order granting approval to the petitioner's appointment atleast from the date on which the BT Assistant



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(Maths) post was sanctioned to the 5th respondent School, within a period of eight (8) weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petitions are closed.

08.04.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
PJJ

To

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R.N.MANJULA, J.

PJL

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