



W.P.(MD)No.9018 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.9018 of 2024
and
W.M.P(MD)No.8208 of 2024

R.Singarayan

Vs.

.. Petitioner

1. The Director of School Education,
College Road,
Chennai-600006.

2. The Chief Educational Officer,
ICI, Higher Secondary School Campus,
Tenkasi District.

3.The District Educational Officer,
Tenkasi,
Tenkasi District.



W.P.(MD)No.9018 of 2024

4.The Correspondent,
Amala Annai High School,
Amali Nagar, Rengasamuthiram,
Tenkasi District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 2nd respondent Chief Educational Officer in Oo.Mu.No.6157/a2/2023 dated 02.01.2024 quash the same in so far as restricting the approval of transfer of petitioner w.e.f., 16.08.2023, and further Direct 2nd respondent Chief Educational Officer to approve forthwith the transfer of the petitioner as BT Assistant English in the 4th respondent school namely Amala Annai High School, Rengasamuthiram w.e.f., 26.10.2021 and to disburse the grant-in-aid towards his salary and other attendant benefits.

For Petitioner : Ms.Amala
For Respondents : Mr.M.Siddharthan
Additional Government Pleader



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W.P.(MD)No.9018 of 2024

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order of the 2nd respnodent in Oo.Mu.No.6157/a2/2023 dated 02.01.2024 in so far as restricting the approval of transfer of petitioner w.e.f., 16.08.2023, and further Direct 2nd respondent Chief Educational Officer to approve forthwith the transfer of the petitioner as BT Assistant English in the 4th respondent school namely Amala Annai High School, Rengasamuthiram w.e.f., 26.10.2021 and to disburse the grant-in-aid towards his salary and other attendant benefits.

2. By consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage itself.

3. Heard Mrs.A.Amala, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.



W.P.(MD)No.9018 of 2024

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4. The petitioner who was appointed as BT Assistant has been transferred to the 4th respondent school on 25.10.2021 as BT Assistant (English). The petitioner had joined on 26.12.2021 itself but however the approval has been granted by the CEO/2nd respondent with effect from 16.08.2023 stating that the conversion of the post from Secondary Grade teacher to BT Assistant in the transferee School only from 16.08.2023. Hence, the petitioner's transfer to the said post can be given effect only from the day on which conversion have been effected.

5. However, the learned counsel for the petitioner submitted that the issue has already been settled by the earlier Division Bench order of this Court held in WA.(MD)Nos.828 of 2014 etc., batch in which the very same issue was taken up for consideration.

6. On perusal of the said order, it is seen that the point in issue as to whether the approval has to be taken effect ie., from the date



W.P.(MD)No.9018 of 2024

of appointment or from the date of permission granted for conversion has been dealt. The relevant portion is extracted as under:

"11. In view of the above consistent decisions of this Court on the issue, we are of the view that the issue is no more res integra. As rightly contended by the learned counsel for the 1st respondent/teachers, approval has to be granted only from the date of appointment and not from a later date, namely from the date on which permission for post conversion was granted."

7. By relying on the above judgment, the learned counsel for the petitioner submitted that the petitioner is also similarly placed and hence the approval ought to have been granted from the date when he got transfer, ie., 25.10.2021 and not from the date when the permission was granted for conversion on 16.08.2023. No doubt in view of the judgment of the Division Bench of this Court, the issue is no more a *res integra* and the approval has to be granted only from the date of appointment and not from the date on which



W.P.(MD)No.9018 of 2024

permission for post conversion was granted. However, in the instant case, the petitioner has been transferred from his earlier school where also he was holding the post of BT Assistant. It is claimed by the learned counsel for the petitioner that transfer is also appointment as regards the transferee school.

8. The petitioner has got his appointment in the very same post of BT Assistant and his transfer can only be a mere transfer and it cannot be considered as an appointment through transfer. However, G.O.Ms.No.79, School Education Department, dated 14.06.2002, states that whenever the Secondary Grade post become vacant that will get automatically upgraded to BT Assistant and hence the petitioner's transfer to the said post would only entitle him to get his transfer approved in the post of BT Assistant from the date of his transfer and not from the date on which permission is granted for conversion.



W.P.(MD)No.9018 of 2024

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9. In the Government Order issued in this regard in G.O.Ms.No.79, School Education Department, dated 14.06.2002, it is mentioned that from 2002-2003 academic year, whenever a vacancy arises in the post of Secondary Grade Teacher for teaching classes VI to VIII, the posts would be converted to that of Middle Grade Graduate Teacher in a phased manner and B.Ed., qualified teachers would be appointed in Secondary Grade Teachers scale, but with one increment. In the judgment of this Court made in ***W.A(MD)No.1497 of 2017 (CEO and another v. Joseph.. and another)*** and the Division Bench judgment reported in ***2018(1)WLR410 (The Government of Tamil Nadu rep. by the Secretary to Government, Department of School Education v. J.Remila and others)***, it is held that once Secondary Grade teacher post was upgraded to Graduate teacher, then whoever assumes the charge in the vacancy so arises on promotion of Secondary Grade Teacher, would automatically get the benefit of upgradation. In other words, the posts get automatically upgraded to BT Assistant from Secondary Grade Teacher on account of a Teacher retires,



W.P.(MD)No.9018 of 2024

resigns or gets promoted.

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10. In the instant case, the petitioner who was already a BT Assistant got transferred to the transferee school in the vacancy arose due to promotion of the incumbent in the Secondary Grade post which would automatically get upgraded in pursuant to the G.O.Ms.No.79, School Education Department, dated 14.06.2002. In such case, the respondent ought to have approved the post of the petitioner as BT Assistant from the date of his assumption of the charge ie., on 26.10.2021 and not from the date when permission was granted for conversion, ie., 16.08.2023. Since the impugned order has been passed contrary to the Government Order as well as the settled position of law in this regard as held by the various judicial pronouncements above mentioned, it is liable to be set aside.

11. In the result, this writ petition is **allowed** and the impugned order of the second respondent in Oo.Mu.No.



W.P.(MD)No.9018 of 2024

6157/a2/2023 dated 02.01.2024 is set aside. The second respondent is directed to approve the petitioner's post as BT Assistant (English) in the 4th respondent school, namely Amala Annai High School, Rengasamuthiram with effect from 26.10.2021 within a period of eight weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

12.04.2024

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

To

1. The Director of School Education,
College Road, Chennai-600006.

2. The Chief Educational Officer,
ICI, Higher Secondary School Campus,
Tenkasi District.

3. The District Educational Officer,
Tenkasi, Tenkasi District.

4. The Correspondent,
Amala Annai High School,
Amali Nagar, Rengasamuthiram,

9/11



W.P.(MD)No.9018 of 2024

Tenkasi District.

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W.P.(MD)No.9018 of 2024

R.N.MANJULA, J.

PJL

W.P.(MD)No.9018 of 2024 and
W.M.P(MD)No.8208 of 2024

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