



W.P.(MD)No.9296 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.(MD)No.9296 of 2024

Jenifer Martina

... Petitioner

Vs.

- 1.The Secretary to the Government,
Department of School Education,
St.George Fort, Chennai.
- 2.The Director of Elementary Education,
DPI Compound, College Road,
Chennai.
- 3.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 4.The District Educational Officer (Elementary),
Valliyur,
Tirunelveli District.
- 5.The Block Educational Officer,
Valliyur,
Tirunelveli District.
- 6.The Correspondent,
TDTA Primary and Middle School,
Anaikulam,
Tirunelveli District.

... Respondents



W.P.(MD)No.9296 of 2024

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the fourth respondent to approve the petitioner's appointment based on the proposal dated 01.03.2019 and disburse all other service and monetary benefits to the petitioner from the date of appointment (w.e.f. 20.02.2019).

For Petitioner : Mr.S.Chellapandian

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking direction against the fourth respondent to approve the petitioner's appointment based on the proposal dated 01.03.2019 and disburse all other service and monetary benefits to the petitioner from the date of appointment (w.e.f. 20.02.2019).

2. Heard Mr.S.Chellapandian, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader for the respondents.

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



W.P.(MD)No.9296 of 2024

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4. Mr.S.Chellapandian, learned counsel for the petitioner submitted that the post of a Secondary Grade Teachers fell vacant in the School due to retirement of one Mrs.Avisha Nesalin. The sixth respondent Management appointed the petitioner as B.T.Assistant (Maths) on 20.02.2019. The Management sent a proposal seeking approval of appointment to the fourth respondent through the fifth respondent on 18.03.2019. The fourth respondent forwarded the proposal and the same was withheld by the third respondent. The educational authorities without passing any order orally informed that the surplus teachers are working in some other schools and the teacher has not passed the TET examination. Since the educational authorities have not passed any order to that effect, the petitioner has come before this Court by way of filing this Writ Petition.

5. Mr.M.Siddharthan, learned Additional Government Pleader for the respondents submitted that the post of B.T Assistant (Maths) was sanctioned only to the sixth respondent School and therefore, it is only the School Management, which is entitled to make a claim and the writ petitioner has no *locus standi* for filing this writ petition. That apart, this Court in its order, dated 13.03.2012 in W.A(MD)No.70 of 2012 has held that in cases relating to



W.P.(MD)No.9296 of 2024

Tirunelveli Diocesan Trust Association (T.D.T.A) Schools, the Management of which is running group of Schools observed that, in all fairness the surplus teachers has to be deployed to the needy or aided Schools, in case group of Schools are run under a single Management. Therefore, the sixth respondent School being one of the Schools under the T.D.T.A Corporate Management ought to have filled the said vacancy with surplus teachers in their Corporate Management. Hence, the respondents prayed to dismiss this Writ Petition.

6. The issue is no more a *res-integra* in view of the judgment rendered in ***W.A.(MD).No.76 of 2019 batch dated 31.03.2021*** in the case of ***The Secretary to Government Government of Tamil Nadu School Education Department, Fort St. George, Chennai – 9 vs Iruthaya Amali***. Even though the sixth respondent is a School coming under the Corporate Management, the appointment of the petitioner was made on 20.02.2019, which is prior to the judgment rendered in the Iruthaya Amali's case. Therefore, the respondents cannot decline the approval of the appointment due to the reasons of TET eligibility or the deployment of the alleged surplus. Hence, the respondents have to positively consider the proposal sent by the sixth respondent School with regard to the appointment of the petitioner and pass orders.



W.P.(MD)No.9296 of 2024

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7. With the above observations, this Writ Petition is **disposed of** with a direction to the fourth respondent to consider the proposal dated 01.03.2019 and pass appropriate orders with regard to approval of appointment of the petitioner as B.T.Assistant (Maths) with effect from 20.02.2019, within a period of six weeks from the date of receipt of a copy of this order. No costs.

16.04.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

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W.P.(MD)No.9296 of 2024

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W.P.(MD)No.9296 of 2024

R.N.MANJULA, J.

Nsr

W.P.(MD)No.9296 of 2024

16.04.2024