



WP(MD) No.9134 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.04.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.9134 of 2024

and

W.M.P(MD)No.8318 of 2024

The Correspondent

A.V.S.High School,

Puliangudi - 627 855,

Kadayanallur Taluk,

Tenkasi District.

... Petitioner

Vs.

1.The Chief Educational Officer

Tenkasi,

Tenkasi District.

2.The District Educational Officer,

Tenkasi,

Tenkasi 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 calling for the records relating to the impugned order in O.Mu.No. 1704/A5/2024 dated 02.04.2024 of the 2nd respondent herein and quash the same and consequently direct the respondents 1 and 2 herein to approve the appointment of Miss.S.Chharu Eunice as a BT Assistant (Science) in the petitioner school w.e.f., 12.06.2023 with all other attended benefits.

For Petitioner : Mr.T.Pon Ramkumar

For Respondents : Mr.M.Siddharthan,
Special Government Pleader

ORDER

The petitioner has filed this Writ Petition seeking for a Writ of Certiorarified Mandamus to set aside the impugned order in



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O.Mu.No.1704/A5/2024 dated 02.04.2024 of the 2nd respondent herein and quash the same and consequently, direct the respondents 1 and 2 herein to approve the appointment of Miss.S.Chharu Eunice as a BT Assistant (Science) in the petitioner school w.e.f., 12.06.2023 with all other attended benefits.

2. Heard Mr.T.Pon Ramkumar, 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.

4. The petitioner school is a Aided Minority Educational Institution. One Karuppaiah, who was working as a Secondary Grade Teacher died and his post became vacant. As per G.O.Ms.No. 79, dated 14.06.2002, the post of the teachers handling Classes 5 to



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8 have got upgraded as BT Assistant and upgradation is being done as and when the vacancy falls due to the death, retirement or creation of any additional posts to handle such classes. So, according to the petitioner, the post filled by said Karuppaiah has got upgraded automatically immediately, after his death in view of the above Government Order.

5. Hence, the petitioner has been appointed as B.T Assistant in the said vacancy on 12.06.2023. Since similar such appointment made to the upgraded B.T Assistant post was rejected, the very same petitioner has filed an earlier Writ Petition in W.P(MD) No.1729 of 2024, in which, the following order has been passed :

“10.The learned counsel for the petitioner submitted that as on date, there is no surplus in the standalone institution. Hence, being a stand alone institution with no surplus, the petitioner School cannot be faulted in exercising the right



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in upgrading the said vacancy into BT Assistant (English) post and appointing a BT Assistant Teacher. As the appointment was made against the sanctioned post without surplus, I hereby set aside the impugned order proceedings of the second respondent dated 19.01.2024 and remand the proposal back to the second respondent with a direction to forthwith grant approval to the appointment of the said James, if otherwise qualified within a period of 12 weeks from the date of receipt of copy of this order.”

6. Having passed the said order, now the petitioner had chosen to reject the appointment of the petitioner on the ground that the petitioner S.Chharu Eunice, does not have TET eligibility test and that the applicability of G.O.Ms.No.165 dated 17.09.2019 is pending in a litigation filed before the High Court. However, in the subsequent judgment of this Court dated 31.03.2021 made in W.A.(MD)No.76 of 2019 etc., batch. The said Government Order



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has been declared as inoperative, especially, against Minority Institution like the petitioner-school. Hence, the second respondent ought to have considered the above facts before rejecting the appointment of the petitioner.

7. Since the impugned order has been passed without considering the essential facts and the earlier judicial pronouncements, the impugned order is liable to be set aside.

8. Hence, this Writ Petition is allowed and the impugned order in O.Mu.No.1704/A5/2024 dated 02.04.2024 passed by the second respondent is set aside. However, the second respondent is directed to reconsider the same, in the light of the earlier judicial pronouncements and pass orders by approving the appointment of the petitioner within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently,



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connected miscellaneous petition is closed.

15.04.2024

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

RM

To

1.The Chief Educational Officer
Tenkasi,
Tenkasi District.

2.The District Educational Officer,
Tenkasi,
Tenkasi District.



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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.9134 of 2024

Dated:
15.04.2024