



W.P.(MD)No.10513 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.10513 of 2024 &
W.M.P.(MD)No.9437 of 2024

The Correspondent,
St.Joseph's High School,
Karunyapuram Post-629 176,
Kanyakumari 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,
DPI Campus, College Road,
Chennai - 600 006.
- 3.The Joint Director of School Education (Secondary),
DPI Campus, College Road,
Chennai - 600 006.
- 4.The Chief Educational Officer,
Kanyakumari District,
At Nagercoil.
- 5.The District Educational Officer (Secondary),
Marthandam, Kanyakumari District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the fifth respondent pertaining to its proceedings in Oo.Mu.No.1363/A6/2024 dated 03.04.2024 and to quash the same and consequently direct the respondents to grant re-employment to Sr.A.Elizabeth Rani, B.T.Assistant in English from 01.04.2024 to 31.05.2024.

For Petitioner : Mr.S.C.Herold Singh

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

ORDER

Heard Mr.S.C.Herold Singh, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader for the respondents.

2. The petitioner School submits that one Sr.A.Elizabeth Rani was appointed as Secondary Grade Teacher with effect from 02.06.1997 and her appointment was approved with effect from 02.06.2003. Except Sr.A.Elizabeth Rani, no other person in the cadre of B.T. Assistant is available in the petitioner School and the same post is not declared



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surplus for the Academic Year 2023-24. Sr.A.Elizabeth Rani had attained the age of superannuation on 31.03.2024. No disciplinary action is pending against her and she is physically fit to get re-employed till the end of the Academic Year 2023-24. But, the petitioner's request to the fifth respondent in this regard was rejected through the impugned order dated 03.04.2024.

3. Mr.S.C.Herold Singh, learned counsel for the petitioner School submitted that Sr.A.Elizabeth Rani continues to take classes to children in the petitioner School during the month of April as well, considering the welfare of the students.

4. On perusal of the impugned order, it is seen that the reason stated as to the rejection of the petitioner's request is that the period from 01.04.2024 has got no significance for learning and that there were already three surplus Secondary Grade Teacher posts available in the School.



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5. As per G.O.(Ms)No.115, School and Education Department, dated 28.06.2022, if a Teacher happens to retire in the middle of the Academic Year, his/her services can be utilized till the end of the Academic Year by re-employment. But, there are two conditions for re-employment. One is that the conduct of the Teacher should be satisfactory and second is the Teacher has got the physical fitness to handle the classes.

6. The impugned order does not state anything adverse about the conduct of the Teacher or her physical fitness. It is stated that the period starting from 01.04.2024 has got less significance for learning. It is a surprise to see such a reasoning when the Government Examinations are held during the month of April only. B.T. Assistant does not take classes only for those students who go for public Examination in the month of March, but also, for other students, whose annual examination usually be held in the month of April. So far as, the reason of presumed excess is concerned, it is not relevant because the appointment has not been made afresh, but a re-employment for a short tenure in compliance



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with the G.O.(Ms)No.115, School and Education Department, dated 28.06.2022. Since the impugned order has been passed without properly appreciating the import of the G.O.(Ms)No.115, School and Education Department, dated 28.06.2022, and it does not postulate any condition as to the surplus etc., the same is liable to be set aside.

7. In view of the above reasons, the writ petition is **disposed of** and the impugned order of the fifth respondent in Oo.Mu.No. 1363/A6/2024 dated 03.04.2024 is set aside and the fifth respondent is directed to pass orders to re-employ Sr.A.Elizabeth Rani till the end of the Academic Year 2023-24 as requested by the petitioner and pass orders within a period of two weeks from the date of the order. No costs. Consequently, the connected Miscellaneous Petition is closed.

29.04.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order
mbi



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To

1. The Secretary,
Department of School Education,
Fort St. George, Chennai - 600 009.
2. The Director of School Education,
DPI Campus, College Road, Chennai - 600 006.
3. The Joint Director of School Education (Secondary),
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R.N.MANJULA, J.

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