



W.P.(MD)No.10926 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.10926 of 2024

and

W.M.P.(MD).No.9732 of 2024

A.Sumitha Gold

... Petitioner

Vs.

1.The Director of School Education,
DPI Compound,
College Road,
Chennai 600 006.

2.The District Educational Officer (Elementary),
Kovilpatti,
Thoothukudi District.

3.The Block Educational Officer
Vilathikulam, Thoothukudi District.

4.The Correspondent,
St. Antonys Primary School, Periasamipuram,
Vilathikulam, Thoothukudi 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 proceeding issued by the 2nd respondent herein vide Na.Ka.No.



W.P.(MD)No.10926 of 2024

1919/A1/2023 dated 24.04.2024 and Quash the same and further direct the 2nd

respondent herein to approve the appointment of petitioner as secondary Grade Teacher in the 4th respondent school w.e.f. 19.12.2016 and disburse grant - in - aid towards salary and other attendant benefits.

For Petitioner : Mr.A.Ajith Geethan

For Respondents : Mr.T.Amjad Khan for R1 to R3
Government Advocate

ORDER

By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.A.Ajith Geethan, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for respondent Nos.1 to 3.

3. This Writ Petition has been filed seeking to quash the order dated 24.04.2024 passed by the second respondent and further direct the second respondent to approve forthwith the appointment of the petitioner, viz., Tmt.A.Sumitha Gold as 'Secondary Grade Teacher' in the fourth respondent



W.P.(MD)No.10926 of 2024

School with effect from the date of her appointment viz., 19.12.2016, with all attendant benefits including the arrears of salary.

4. The petitioner was appointed as ‘Secondary Grade Teacher in the fourth respondent School on 19.12.2016 due to transfer of the then incumbent Ms.F.Margaret on 27.11.2014. When the fourth respondent School submitted proposal before the third respondent for approval of appointment of the petitioner, the same was kept pending stating that the vacancy had to be filled by re-deployment of excess Teachers in other Schools under the management of the fourth respondent. Thereafter, the petitioner filed a Writ Petition before this Court in W.P.(MD).No.3063 of 2017 seeking for her approval as ‘Secondary Grade Teacher’ and this Court vide order dated 27.07.2021 disposed of the Writ Petition by setting aside the impugned proceedings in A.Thi.M.No.40/A1/2017 dated 11.01.2017 issued by the Additional Elementary Education Officer and remanded back the matter for fresh consideration. As the order of this Court was not complied by the respondents, the petitioner filed a Contempt Petition before this Court in Cont.P.(MD).No.1458 of 2022. When the Contempt Petition was taken up for hearing, the respondents circulated the impugned proceedings in Na.Ka.No.22/A1/2022, dated 26.10.2022, wherein, the second respondent had denied to approve the appointment of the petitioner stating that



W.P.(MD)No.10926 of 2024

the surplus teachers are working in other schools under the same management.

Again the petitioner herein has filed another Writ Petition in W.P.(MD).No. 16452 of 2023 and this Court vide order dated 27.11.2023 allowed the Writ Petition and set aside the impugned order in Na.Ka.No.22/A1/22 issued by the District Educational Officer and remitted back the matter for fresh consideration. As the order of this Court was not complied by the respondents, the petitioner filed a Contempt Petition in Cont.P.(MD).No.690 of 2024. Thereafter, the second respondent herein denied approval of the appointment and issued impugned proceedings in Na.Ka.No.1919/A1/2023 dated 24.04.2024, stating that due to fall of the students' strength for the academic year 2017-2018, the post of the petitioner was rendered surplus in the fourth respondent School and therefore, the petitioner cannot be appointed. Challenging the same, the present Writ Petition has been filed.

5. The matter in hand is no longer a *res-integra*. This Court has already dealt with a similar issue in *W.P.(MD).No.7479 of 2024, dated 17.04.2024* wherein, it is held as follows:

6. The petitioner's appointment has been made prior to the order dated 31.03.2021 passed in W.A.(MD).No.76 of 2019 batch. Hence, the



petitioner School can get the advantage of getting approval of the appointment of Sunitha as B.T.Assistant Maths. Therefore, the respondents cannot decline the approval of the appointment due to the reasons of TET eligibility or the deployment of the alleged surplus.

*7. In view of the above stated reasons, this Writ Petition is **allowed** and the impugned order dated 08.09.2020 is set aside. The respondents 3 and 4 are directed to consider and pass orders regarding approval of appointment of Sunitha as B.T.Assistant Maths with effect from 01.08.2017. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.*

6. In the light of the decision cited supra, this writ petition is **allowed** and the impugned order dated 24.04.2024 issued by the second respondent in Na.Ka.No.1919/A1/2023 is set aside. The second respondent is directed to consider and pass orders regarding approval of appointment of the petitioner as ‘Secondary Grade Teacher’ with effect from 19.12.2016. The said exercise shall be completed within a period of eight weeks from the date of receipt of a



W.P.(MD)No.10926 of 2024

copy of this order. No costs. Consequently, connected miscellaneous petition

is closed.

30.04.2024

Index:yes/no

Internet:yes/no

Ncc : yes/no

TSG

To

1.The Director of School Education,
DPI Compound,
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Chennai 600 006.

2.The District Educational Officer (Elementary),
Kovilpatti,
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Vilathikulam, Thoothukudi District.



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W.P.(MD)No.10926 of 2024

R.N.MANJULA, J.

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W.P.(MD)No.10926 of 2024

30.04.2024