



W.P.(MD)No.15141 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.06.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.15141 of 2020
and
W.M.P.(MD)No.12751 of 2020

Sr.L.Prema

Vs.

... Petitioner

- 1.The Government of Tamil Nadu,
Represented by its Additional Chief Secretary,
Department of School Education,
Fort St. George, Chennai – 9.
- 2.The Director of School Education,
DPI Campus,
College Road,
Chennai – 6.
- 3.The Chief Educational Officer,
The Office of the Chief Educational Officer,
Tirunelveli.
- 4.The Chief Educational Officer,
The Office of the Chief Educational Officer,
Tenkasi.
- 5.The District Educational Officer,
The Office of the District Educational Officer,
Tenkasi – 627 811.
- 6.The Correspondent,
St. Michael's Girls Higher Secondary School,
Tenkasi – 627 811.

... Respondents



W.P.(MD)No.15141 of 2020

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings dated 10.01.2020, in A.Thi.Mu.No.3013/AA1/2020, on the file of the 5th respondent and quash the same in respect of the petitioner, directing the respondents to allow the increment and incentive for the petitioner, Sr.L.Prema, working as B.T. Asst. (History) in St.Michael's Girls Higher Secondary School, Tenkasi – 627 811, w.e.f. 01.07.2014 with all service benefits.

For Petitioner : Fr.V.John Kennedy
For M/s.Father Xavier Associates
For Respondents 1 to 5 : Mr.M.Sarangan
Additional Government Pleader
For 6th Respondent : No Appearance

ORDER

This Writ Petition has been filed to quash the impugned order passed by the fifth respondent vide his proceedings in A.Thi.Mu.No. 3013/AA1/2020, dated 10.01.2020 and to direct the respondents to allow the increment and incentive for the petitioner, Sr.L.Prema, working as B.T. Asst. (History) in St.Michael's Girls Higher Secondary School, Tenkasi – 627 811, w.e.f. 01.07.2014 with all service benefits.

2.The petitioner was appointed as B.T. Assistant (History) in the sixth respondent School on 01.07.2015 in the vacancy, which has arisen due to transfer of Tmt.A.Justin Kalpana on 04.06.2012. The sixth respondent School is a minority educational institution functioning under the Corporate Management of Congregation of the Immaculate



W.P.(MD)No.15141 of 2020

Conception. A proposal for approval of appointment of the petitioner as B.T. Assistant in the sixth respondent School with effect from 01.07.2014 was forwarded to the educational authorities on 22.02.2016 with all necessary documents. However, the fifth respondent vide proceedings dated 13.05.2016, returned the proposal without approval directing to resubmit the same along with TET eligibility certificate. Since the petitioner is serving in a minority institution, the said certificate is not necessary. Further it was forwarded and thereafter appointment was approved on 21.02.2017. However, her annual increment has not been further sanctioned. In view of the same, the petitioner made a representation on 14.12.2019 seeking to disburse her annual increment and the same was rejected vide impugned order dated 10.01.2020 by the fifth respondent. Challenging the same, this Writ Petition came to be filed.

3.Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1 to 5 and carefully perused the materials available on record.

4.However, this issue in hand is no more *res integra*. I have dealt with similar case in ***The Correspondent v. The Director of School Education and others*** in ***W.P.(MD)No.6099 of 2021*** and the relevant portion of the same is extracted as follows:-



W.P.(MD)No.15141 of 2020

"4. The 3rd respondent had filed a counter and the learned Government Advocate submitted that getting qualification of TET is necessary for approval of grant of annual increment. Since the said Karthika did not qualify TET, she is not entitled for annual increment and on that line, he pressed for dismissal of the writ petition. He further submitted that in the case of B.Annie Packiarani Bai Vs. The Director of School Education, the department have already preferred a SLP in SLP(Civil) Diary No.17702 of 2021 with respect to the issue of teachers of minority institution be qualified in TET and the same is pending before the Hon'ble Apex Court. However, no interim orders have been passed by the Hon'ble Apex Court. In view of the pendency of the said SLP, the learned Government Advocate pressed for dismissal of the writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

6. However, this issue is no more res integra. Considering the fact that already this court in W.P(MD)Nos.1187 and 1189 of 2020 and batch had considered a similar case of 4 teachers in the same school and had passed favourable orders pertaining to the same impugned order, dated 19.12.2018 of the District Educational Officer, this Court is inclined to quash the impugned order, dated 19.12.2018. The petitioner school is directed to submit fresh proposal seeking grant of annual increment of the petitioner to the 3rd respondent and on receipt of the same, the 3rd respondent is directed to release the annual increment of J.Karthika in the light of the decisions of the Hon'ble Division Bench of this Court reported in 2016



W.P.(MD)No.15141 of 2020

***(5) CTC 639 (The Secretary to Government Vs. S.Jeyalakshmi)
within a period of eight (8) weeks from the date of receipt of a
copy of this order."***

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5.Following the same, the impugned order is hereby quashed and consequently, the fifth respondent is directed to allow the increment and incentive for the petitioner with all service benefits subject to the outcome of the Special Leave Petition which is pending before the Hon'ble Supreme Court.

6.Accordingly, the Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

04.06.2024

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



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W.P.(MD)No.15141 of 2020

L.VICTORIA GOWRI, J.

Mrn

To

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- 2.The Director of School Education,
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W.P.(MD)No.15141 of 2020

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