



W.P.(MD)No.14127 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.14127 of 2024

and

W.M.P(MD)No.12402 of 2024

S.Heartlin Jasmine

... Petitioner

vs.

- 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,
Pudukkottai.
- 4.The District Educational Officer,
The Office of the District Educational Officer,
Pudukkottai.
- 5.The Correspondent,
St.Mary's Higher Secondary School,
Thatchankurichy,
Pudukkottai District-613 301.

...Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings, dated 08.11.2017 in A.Thi.Mu.No.6148/A4/2017 on the file of the fourth respondent and quash the same in respect of the petitioner, directing the respondents to allow the increment for the petitioner Mrs.S.Heartlin Jasmine working as B.T.Assistant (Maths) in St.Mary's Higher Secondary School, Thatchankurichy, Pudukkottai District with effect from 01.10.2013 with all service benefits.

For Petitioner : Mr.S.Savarimuthu
M/s.Father Xavier Associates
For Respondents : Mr.M.Sidharthan
Additional Government Pleader

ORDER

Heard Mr.S.Savarimuthu, learned counsel for the petitioner and Mr.M.Sidharthan, learned Government Advocate for the respondents.

2. The petitioner has filed this petition to quash the order in A.Thi.Mu.No.6148/A4/2017 dated 08.11.2017 on the file of the fourth respondent and consequently direct the respondents to allow the increment for the petitioner Mrs.S.Heartlin Jasmine working as B.T.Assistant (Maths) in St.Mary's Higher Secondary School, Thatchankurichy, Pudukkottai District with effect from 01.10.2013 with all service benefits



3. The petitioner was appointed as B.T.Assistant (Maths) in the fifth respondent School on 01.11.2011 in the vacancy arising due to the resignation of an incumbent on 20.10.2011. The fifth respondent School has forwarded a proposal for approval of the said appointment in the post of B.T.Assistant. The said proposal was considered and approval was also accorded and the petitioner was given with regular incentives on a condition that the petitioner has to pass Teachers Eligibility Test within three years. Thereafter, in the year 2013, the petitioner was granted with annual increment. However, it was not approved by the fourth respondent and the increments and incentives were withheld for want of TET qualification.

4.The learned counsel for the petitioner submitted that the issue is no longer a *res integra* and is covered by the decision of this Court in ***W.A.No.558 of 2021 dated 22.06.2023***. While dealing with the same issue, this Court has observed in paragraph Nos.8 to 12 held as follows:-

*“8. As has been rightly pointed out by the learned counsel appearing for the respondents, the issue as to whether the teacher appointed in a minority school must have qualified with TET was the question that was answered by the Hon'ble Supreme Court in **Pramati Educational and Cultural Trust's** case (cited supra), thereafter, since no contra decision has come*



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for the present, it cannot be stated that, without such qualification if he / she is appointed in a minority school where the appointment is also approved, he / she is not entitled to get annual increment.

9. Once the appointment is approved by the competent authority, the question of withholding the increment alone does not arise because if the appointment is approved, the teacher is eligible to get salary as well as all other perquisites, including the increment, for which the teaching grant is being sanctioned by the Government from time to time for such aided schools.

10. Since the first respondent school is one of such aided school and minority institution, where if the teacher has got appointment and her appointment was also having been approved, the appellant department cannot refuse to give the annual increment. Therefore, the order passed by the learned Judge cannot be found fault with, hence, the order has to be sustained.

11. In view of the aforestated, this appeal fails, hence, it is liable to be dismissed.

12. As a sequel, there shall be a direction to the appellant department to calculate the annual increments, for which the teacher concerned is entitled to, and pay the same to the teacher and continue to pay the same and the needful shall be undertaken by the appellant department as indicated above within a period of 8 weeks from the date of receipt of a copy of this order.”



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5. Since the petitioner herein is also similarly placed as that of the petitioner in the above writ petition, this petitioner is also entitled for the same relief.

6. However, it is learnt that the issue is pending before the Hon'ble Supreme Court in S.L.P.(C)No.17702 of 2021 and the outcome of the said petition is awaited. Therefore, the petitioner shall file a fresh writ petition on the same cause of action subject to the outcome of the S.L.P. (C)No.21178 of 2023, if she intends to do so.

7. This writ petition is disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

01.07.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order
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R.N.MANJULA, J.

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- To
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Represented by its Additional
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 - 2.The Director of School Education,
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