



W.P.(MD)No.15474 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.15474 of 2024

and

W.M.P.(MD).No.13531 of 2024

The Correspondent,
St.James Higher Secondary School,
Opposite to Township Colony, A.Vellodu,
Dindigul District.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai.
- 2.The Director,
School Education Department,
DPI Campus, College Road,
Chennai.
- 3.The Joint Director (Secondary),
School Education Department,
DPI Campus, College Road,
Chennai.
- 4.The Chief Educational Officer,
Chief Educational Office,
Dindigul District, Dindigul.



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5.The District Educational Officer (Secondary),
Chief Educational Office,
Dindigul District,
Dindigul.

6.The Superintendent of R.C. Schools,
Punitha Thoma Pastoral Centre,
St.Josephs Cathedral Campus,
Dindigul, Dindigul 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 of the impugned order passed by the 5th respondent herein in his proceedings in O.Mu.No. 4008/A2/2023 dated .11.2023 signed on 22.12.203 and quash the same as illegal and further direct the 4th respondent herein to approve forthwith the appointment of B.Ruban as B.T. Assistant (Science - Physics) in the petitioner school w.e.f., 02.01.2023 with all attendant benefits including arrears of salary and allowances.

For Petitioner : Mr.S.Vashikali

For R-1 to R-5 : Mr.T.Amjadkhan,
Government Advocate

ORDER

By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.S.Vashikali, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondent Nos.1 to 5.



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3. The petitioner has filed this Writ Petition challenging the order of the fifth respondent dated ..11.2023 which returned the proposal sent by the petitioner for approving the appointment of B.Ruban to the post of B.T.Assistant Science with effect from 02.01.2023.

4. The above proposal was returned stating that the petitioner ought not to have made any appointments before exhausting the surplus post available within the other School under the same management. The appointment was made on 02.01.2023. Therefore, relevant staff fixation would relate back to the year 2022-2023. Since the fifth respondent has followed the judgment rendered by the Division Bench of this Court in W.A.(MD).No.76 of 2019 and batch, dated 31.03.2021, the petitioner to produce the certificate that there was no surplus available in the petitioner school as on the date when the said Ruban was appointed. It is obligatory on the part of the petitioner to produce the same before expecting the respondents to process the proposal for approval.

5. Mr.Vashikali, learned counsel appearing for the petitioner submitted that as on today when the petitioner was appointed, there was no surplus even in the corporate management under which the sixth respondent School is placed.



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6. In such case, there will not be any difficulty for the petitioner to resubmit the proposal along with the post to show that there was no surplus during the relevant point of time and hence, the petitioner's appointment is made only as against the sanctioned post available during the relevant academic year.

7. In fact, the appointment has been made in view of the vacancy arose due to the superannuation of one Sahaya Joseph, who has been working as a Secondary Grade Teacher. In the impugned order, it is stated that the petitioner who has been appointed as B.T. Assistant (Science) but before his appointment, the order to convert the existing secondary grade teacher to B.T. Assistant has not been appointed. By virtue of the Government Order in G.O.(Ms).No.79, School Education (U1) Department, dated 14.06.2002, all those vacancies arising in the cadre of Secondary Grade Teacher would get an automatic upgradation with effect from 14.06.2002.

8. Since the impugned vacancy has arisen subsequent to the Government Order which came into force, it is necessary for the authorities concerned to seek for the conversion order. Since the petitioner is aware of the Government order, it is up to him to go by the Government Order in respect of the clarification raised in this regard and resubmit the proposal.



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9. In view of the above, the Writ Petition is **disposed of** with liberty to the petitioner to resubmit the proposal for the appointment of B.Ruban as B.T. Assistant (Science-Physics) with effect from 02.10.2023 before the fourth respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the fourth respondent is directed to consider the proposal submitted by the petitioner and pass appropriate orders on merits and in accordance with law within a period of four weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

11.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG

To

- 1.The Government of Tamil Nadu,
Rep. 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,
Madurai - 625 002.

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4. The District Educational Officer,
the Office of the District Educational Officer,
Melur,
Madurai - 625 002.

R.N.MANJULA, J.

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