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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 28.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.16326 of 2022

K.Savitha ... Petitioner

Vs.

1.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.

2.The Director Educational Officer,
Vallioor, Tirunelveli District.

3.Holy Redeemer's Higher Secondary School,
Rep. By its Correspondent,
Thsaiyanvilai village, Vallioor Taluk,
Tirunelveli District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in O.Mu.No. 1957/A3/2021 dated 08.10.2021 of the first respondent herein and quash the same and consequently direct the respondents 1 and 2 herein to approve the appointment of the petitioner as PG Assistant (Tamil) in the third respondent School w.e.f. 24.07.2018 with all consequential monetary benefits.

For Petitioner : Mr.G.Thalaimuthurasu
For Respondents : Mr.P.T.Thiraviyam
Government Advocate

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ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of the first respondent in O.Mu.No.1957/A3/2021 dated 08.10.2021 and to direct the respondents 1 and 2 herein to approve the appointment of the petitioner as PG Assistant (Tamil) in the third respondent School w.e.f. 24.07.2018 with all consequential monetary benefits.

2.The third respondent School is an aided minority School. One post of PG Assistant (Tamil) fell vacant due to promotion of one Tmt.I.Mary Freeda as a Headmistress in the third respondent School. In the said vacancy on 24.07.2018, the petitioner was appointed as PG Assistant (Tamil). Thereafter, the third respondent School forwarded the proposal for approval of appointment of the petitioner to the first respondent through the second respondent. The second respondent by proceedings dated 09.10.2020, returned the proposal to the third respondent School by citing certain defeats. On rectifying those defeats, the proposal was further re-submitted by the third respondent. Even thereafter, the same was not proved. Hence, the petitioner filed a Writ Petition in W.P.(MD)No.10286 of 2021 before this Court seeking to direct the

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respondents to approve her appointment as PG Assistant (Tamil). This Court was pleased to pass an order directing the respondents to consider the proposal dated 05.11.2020. Pursuant to the same, a temporary approval to the appointment of the petitioner with effect from 04.07.2022 came to be issued by the first respondent subject to the outcome of this Writ Petition. Since the same was not considered, this Writ Petition came to be filed.

3.The learned counsel relying upon the judgment of this Court in ***R.Chithra and Others v. Member Secretary*** reported in ***CDJ 2021 MHC 3005*** submitted that the respondents had restrained from approving the appointment of the petitioner only on the ground that she had pursued two degrees during academic years 2013-2014 i.e. M.A., and B.Ed. However, relying upon the Hon'ble Full Court judgment, he submitted that the direction issued by the UGC in the Form of Statutory notification is a mere recommendation of the UGC and the same do not have a statutory value but only a recommendatory value. He further submitted that there is change in policy and the UGC has issued guidelines for pursuing two academic programmes simultaneous on April 2022 in which, UGC has permitted a student to pursue two full time

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programmes simultaneously without overlapping the class timings of the other programme. In view of the same, he contended that the petitioner's appointment obviously should be approved by the respondents.

4.The respondents 1 and 2 have filed a counter and the learned Government Advocate for the respondents submitted that the course duration of M.A. pursued by the petitioner is 2011-2013, but the first year exams completed in the month of May 2012 and second year exams completed in the month of November 2014. On the other hand, the course duration of B.Ed pursued by the petitioner is 2012-2013 and completed exams on May 2013 and further the course duration of M.Ed pursued by the petitioner is 2014-2015. Hence, the duration between M.A., degree and B.Ed degree pursued by the petitioner are overlapping. He further insisted that M.A., second year exams were completed by the petitioner in the month of November 2014 and at the same time, she got admission for M.Ed Degree in college on 27.08.2014. In view of the fact that the period of study of two degrees were overlapping her qualification cannot be accepted for the post of PG Assistant (Tamil) and her appointment cannot be approved. On that

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basis, he prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents and carefully perused the entire materials available on record.

6.A careful perusal of the new guidelines issued by the UGC on April 2022 with respect to pursuance of two academic programmes simultaneously would reveal that the said guidelines would come into effect from the date of notification by the UGC and retrospective benefit cannot be claimed by the students, who have already done two academic programmes simultaneously prior to the notification of these guidelines. Obviously the petitioner herein has completed two degrees before the notification of the revised guidelines issued by the UGC by April 2022.

7.The learned counsel for the petitioner submitted that the petitioner is inclined to limit her prayer to such extent that her appointment could be approved from the date of issuance of revised UGC notification. She is not insisting on retrospective benefit as to her academic programmes done simultaneously prior

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to the said notification.

8.In view of the same, this Court is of the considered view that the said submissions is fair enough to be considered and the first respondent is directed to modify the already issue temporary approval dated 04.07.2022 and pass final orders approving the appointment of the petitioners as PG Assistant (Tamil) in the third respondent School with effect from April 2022 the month on which, revised guidelines has been issued by the UGC along with service benefits within a period of 12 weeks from the date of receipt of copy of this order.

9.Accordingly, this Writ Petition stands disposed of. There shall be no order as to costs.

28.03.2024

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

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To

1.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.

2.The Director Educational Officer,
Vallioor, Tirunelveli District.

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L.VICTORIA GOWRI, J.

Mrn

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