



W.P.(MD).No.15357 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.15357 of 2024
and WMP(MD) No.13453 of 2024

The Correspondent,
St.Mary's Higher Secondary School,
Colachel- 629 251,
Kanyakumari District.

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep by its Secretary,
Department of School Education,
Fort. St. George, Chennai - 600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The Chief Educational Officer,
Kanyakumari District.
4. The District Educational Officer,
Nagercoil, Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorarified Mandamus, calling for the



W.P.(MD).No.15357 of 2024

records in pursuant to the impugned order passed by the 4th respondent DEO in Na.Ka.No.7558/A1/2022, dated 26.05.2023 and the consequential proceedings in O.Mu.No.188/A1/2024 dated ...02.2024 quash the same and further direct the respondents to approve forthwith the appointment of D.Sumathy as PG Assistant (Tamil) in the petitioner school w.e.f., 03.06.2019 and disburse the grant-in-aid towards her salary and allowance with effect from the said date.

For Petitioner : Mrs.A.Amala

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mrs.A.Amala, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader for the respondents.

2.The petitioner has filed this Writ Petition challenging the impugned order passed by the 4th respondent in Na.Ka.No.7558/A1/2022, dated 26.05.2023 and the consequential proceedings in O.Mu.No.188/A1/2024 dated ...02.2024 and further direct the respondents to approve forthwith the appointment of D.Sumathy as PG Assistant (Tamil) in the petitioner school



W.P.(MD).No.15357 of 2024

with effect from 03.06.2019 and disburse the grant-in-aid towards her salary and allowance with effect from the said date.

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

4. The petitioner is an unit of an aided minority Corporate Management. The petitioner School management has appointed one D.Sumathi as PG Assistant (Tamil) with effect from 03.06.2019 in the vacancy arose due to the retirement of the then incumbent S.Mary Vasanthal and when the proposal for her appointment was sent for approval, the proposal has been returned stating that the post has been held as surplus for the academic year 2019-2020 and hence the proposal cannot be accepted. As on the day when the petitioner school had appointed D.Sumathy to the post of PG Assistant (Tamil), the post was very much available.

5. The learned counsel for the petitioner submitted that sofaras the Higher Secondary Schools are concerned the rules of surplus in fixing the teachers strength in accordance with the strength of the student is not



applicable and the criteria to be taken for sanctioning the teachers is based on the availability of the number of sections and groups. The petitioner claims that the petitioner School has got six groups and one group for both English and Tamil medium. Therefore, if the number of groups exceed two, automatically, the school will be entitled to one more P.G. Assistant in Tamil. So it is claimed that as per the G.O.Ms.No.525 School Education Department dated 29.12.1997, the petitioner school can retain more than two PG Assistant (Tamil). But in the year 2020, one PG Assistant (Tamil) is rendered as surplus and it is not legal.

6. In this regard, it is relevant to refer the Division Bench judgment of this Court held in W.A.(MD)No.1155 of 2020 dated 25.03.2023 wherein it is held as under:

“13. We have considered the rival submissions. We find that the second contention of the learned counsel for the respondent viz., the fixation of staff strength based on students' strength will not apply to higher secondary classes has considerable force in it. The relevant Government Order G.O.Ms.No.525, dated 29.12.1997 prescribes the following recommendations for sanctioning of post in schools.

IV. HIGHER SECONDARY SCHOOLS (11th AND 12th Standards) a) The norms will be 8 Post – Graduate Teachers for a Higher Secondary School with a minimum of two groups as follows:
(i) For 2 Groups -- 6 Post-Graduate Assistants



W.P.(MD).No.15357 of 2024

(ii) For English -- 1 Post-Graduate Assistants

(iii) For Tamil -- 1 Post-Graduate Assistants

b) Additional Post of Post-Graduate Assistants will be sanctioned based on work-load i.e., 24 hours of teaching per week

c) Regarding bifurcation of standard additional section will be formed when the strength exceeds 60 and so on in slab 40 as in the case of High Schools.

d) For Vocational stream, 2 posts of teachers (full time) will be sanctioned irrespective of the number of courses.

e) The Post Graduate Assistant for languages in the main stream will handle the language classes of vocational stream students also.

f) For Schools with a strength of over 400, one post of Physical Director will be given by up gradation of existing post of Physical Educational Teachers.

14. A reading of the above would show that the fixation of staffs' strength is based on the number of sections and groups and not on the number of students. As already adverted to, the respondent school is offering four groups in aided section, of which one is vocational group. There are atleast three regular groups. Apart from offering three regular groups, the respondent school is offering English and Tamil medium in First group which consists of Tamil, English, Maths, Physics, Chemistry and Biology. Therefore, there have to be eight sections, four in XI Standard and four in XII Standard. Each section of students will have to be given atleast four hours of lecture in Tamil per week. That means the number of lecturing hours in Tamil would be 32 hours, which is essentially more than the 24 hours fixed for P.G. teachers in Tamil. Therefore, there has to be two P.G. teachers in Tamil in the respondent school. We have taken care to exclude the vocational stream, as the



W.P.(MD).No.15357 of 2024

Government Order itself provides vocational group students will be taught by the language teachers in the main stream.

15. We can justify the order of the learned Single Judge based on this alone. However, even on the next question as to whether the Authorities will have the power to refuse approval to an appointment made to a sanctioned post, in view of the judgment of the Division Bench in Meada Vs. The Secretary to Government and others made in W.A.(MD).No.628 of 2014, the answer has to be a firm no. Paragraph 7 of the said judgment reads as follows:-

“7. It is a well settled legal principle that if a person is appointed in a sanctioned post, the approval of appointment cannot be rejected and if there is fall in strength and the post become surplus, after granting approval for the post, the said teacher along with post could be transferred/ deployed to a needy school.”

16. Therefore, once a teacher is appointed to the sanctioned post, the Government cannot refuse approval. We do not think we should go into the question as to whether school should be given an opportunity before staff strength is reduced or withdrawn. In view of the above facts, the writ appeal will have to fail on these two grounds itself.”

7. As per G.O.Ms.No.525 dated 29.12.1997, for Higher Secondary Schools which have two groups, there shall be six PG Graduate Assistants, one PG Assistant (English) and one PG Assistant (Tamil) are eligible. Since the petitioner School has got six groups with one Tamil medium group, there cannot be any difficulty in accommodating with more than two language



W.P.(MD).No.15357 of 2024

Teachers. But only one PG Assistant (Tamil) has been sanctioned in the year 2019-2020 which is not correct. Whatever may be the case, as on the day when D.Sumathy was appointed as PG Assistant, the post was very much in existence even without the aid of G.O.Ms.No.525 dated 29.12.1997. Hence, there cannot be any objection to accord the approval to the appointment of D.Sumathy to the post of PG Assistant (Tamil) in the petitioner School.

8. In view of the above stated reasons, this Writ Petition is **allowed** and the impugned order passed by the 4th respondent in Na.Ka.No. 7558/A1/2022, dated 26.05.2023 and the consequential proceedings in O.Mu.No.188/A1/2024 dated ...02.2024 are set aside. The 4th respondent is directed to reconsider the proposal of the petitioner School and pass orders afresh by granting approval to the appointment of D.Sumathy as PG Assistant(Tamil) with effect from the date of appointment. No Costs. Consequently, connected miscellaneous petition is closed.

10.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
PJL



W.P.(MD).No.15357 of 2024

WEB COPY

To

1. The Secretary, State of Tamil Nadu,
Department of School Education,
Fort. St. George, Chennai - 600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The Chief Educational Officer,
Kanyakumari District.
4. The District Educational Officer
Nagercoil, Kanyakumari District.



WEB COPY



W.P.(MD).No.15357 of 2024

R.N.MANJULA, J.

PJL

W.P.(MD).No.15357 of 2024
and WMP(MD) No.13453 of 2024

10.07.2024