



WP.(MD).No.15409 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.15409 of 2023

and

W.M.P.(MD)Nos.13012 and 13013 of 2023

Sr.Helen,
Holy Cross Girls Higher Secondary School,
Thangachimadam,
Ramanathapuram – 623 529.

... Petitioner

Vs.

- 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,
Ramanathapuram District.
- 4.The District Educational Officer,
The Office of the District Educational Officer,
Ramanathapuram District.
- 5.The Correspondent,
Holy Cross Girls Higher Secondary School,
Thangachimadam,
Ramanathapuram – 623 529.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings dated 22.10.2021, in Na.Ka.No.2208/A4/2021, on the file of the fourth respondent and quash the same, directing the respondents, to accord approval to the appointment of the petitioner, Sr.Helen, working as B.T. Assistant (History) in the 5th respondent, Holy Cross Girls Higher Secondary School, Thangachimadam, Ramanathapuram district w.ef. 26.06.2019 and release salary with all monetary and service benefits.

For Petitioner	: Mr.S.FR.Savarimuthu
For Respondents	: Mr.N.Ramesh Arumugam Government Advocate

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned proceedings dated 22.10.2021, in Na.Ka.No.2208/A4/2021, on the file of the fourth respondent and to direct the respondents, to accord approval to the appointment of the petitioner, Sr.Helen, working as B.T. Assistant (History) in the 5th respondent, Holy Cross Girls Higher Secondary School, Thangachimadam, Ramanathapuram district w.ef. 26.06.2019 and release salary with all monetary and service benefits.



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2.The petitioner was appointed as a BT Assistant (History) in the fifth respondent School with effect from 26.06.2019 in a vacancy, which has arisen due to the retirement of Tmt.Maria Abila Therasu on 31.05.2015. Pursuant to the approval of the relieving order of the incumbent Tmt.Maria Abila Therasu, the petitioner become qualified to be appointed as BT Assistant (History). The said post is a regular sanctioned post with grant-in-aid from the Government. The fifth respondent School is a minority institution. The previous incumbent Tmt.Maria Abila Therasu was working as a Secondary Grade Teacher and since she attained superannuation on 31.05.2015, the fifth respondent School had sent a proposal to the fourth respondent for conversion of post from Secondary Grade post to BT Assistant (History) on 25.06.2015. The third respondent vide proceedings dated 11.12.2016 converted the said post from Secondary Grade to BT Assistant (History). After the said approval, the petitioner was appointed as a BT Assistant (History) in the fifth respondent School with effect from 11.12.2016. Following which, the fifth respondent School forwarded the proposal for approval for the appointment of the petitioner to the fourth respondent on 30.08.2017. In the meanwhile, the petitioner fell ill and she left the school and after recovery, she rejoined the school afresh in the



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same post from 26.06.2019.

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3.Hence, a fresh proposal for approval of appointment of the petitioner as BT Assistant (History) in the fifth respondent School with effect from 26.06.2019 was forwarded to the educational authorities on 28.08.2020. However, the said proposal was returned by the impugned order dated 22.10.2021 passed by the fourth respondent. Challenging the same, this Writ Petition came to be filed.

4.The learned counsel appearing for the petitioner Mr.FR.S.Sarvarimuthu submitted that the petitioner was duly appointed in the sanctioned post of BT Assistant (History) and hence, the respondents ought to have approved the appointment of the petitioner in the post of BT Assistant (History). However, the impugned order came to be passed for the reason of existence of surplus Teacher in the educational district. The respondent School is a minority School run by the Catholic Religious Congregation of 'Roman Catholic Society of the Congregation of the Sisters of Holy Cross of Chavanod'. If at all the existence of surplus Teacher within the Corporate Management had been cited as the reason for



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rejection of the proposal by the respondents that is understandable.

However, the reason cited by the respondents in the impugned order is the presence of surplus Teachers in the educational district and such a reason is unwarranted and unheard of and hence, calls for interference of this Court and pressed for allowing the Writ Petition.

5.The fourth respondent has filed a counter and the learned Government Advocate appearing for the respondents Mr.N.Ramesh Arumugam submitted that the petitioner was appointed as BT Assistant (History) on 26.06.2019 during the subsistence of the stay, which has been granted by the Hon'ble Division Bench of this Court in W.A.(MD)No.76 of 2019 with respect to the approval of any appointments under the Corporate Management. Hence, the appointment of the petitioner is not could be approved. He further submitted that the appointment of the petitioner was made on 26.06.2019. But the proposal for approval was granted only on 28.08.2020. The inordinate delay of one year by the Management has not been explained. In view of the same, he pressed for dismissal of the Writ Petition.



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

7. The grounds taken by the respondents for rejection of the proposal of approval of the appointment of the petitioner as BT Assistant (History) are unfolded as under :-

(i) The ground relied upon by the learned Government Advocate is that the petitioner came to be appointed during the operation of stay granted by the Hon'ble Division Bench of this Court in W.A.(MD)No.76 of 2019. However, the impugned order came to be passed on 22.10.2021 I.e. atleast after a period of seven months after the disposal of W.A.(MD)No.76 of 2019 vide order dated 31.03.2021, by giving quietus to the issue of surplus and other related matters in the administration of the schools in the State. Hence, the impugned order of rejection, which came to be passed after the dismissal of the said Writ Appeal on the basis of the interim order passed in the said case is not sustainable.

(ii) The other ground relied by the learned Government Advocate is the proposal submitted after the delay of nearly 10



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months. The delay of 10 months cannot be considered as inordinate delay in view of the various intricacies in the administration of the School.

8.At this juncture, the learned counsel appearing for the petitioner brought to the notice of this Court that the said proposal was forwarded during the pandemic period.

9.In view of the same, this Court hereby observe that the impugned order of rejection is perse illegal and the impugned order dated 22.11.2021 passed by the fourth respondent is hereby quashed. The respondents are directed to accord approve to the appointment of the petitioner, if otherwise qualified.

10.In view of the above, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

15.02.2024

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



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L.VICTORIA GOWRI, J.

Mrn

To

- 1.The Additional Chief Secretary,
Government of Tamil Nadu,
Department of School Education,
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- 2.The Director of School Education,
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