



W.P.(MD).No.17390 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.17390 of 2021

G.Santhakumar

...Petitioner

Vs.

- 1.The Director of Elementary Education,
College Road,
Chennai-06.
- 2.The Chief Educational Officer,
Office of the Chief Educational Officer,
Thanjavur.
- 3.The District Educational Officer,
Office of the District Educational Officer,
Thanjavur.
- 4.The Block Educational Officer,
Thiruvaiyaru, Thanjavur.
- 5.The Correspondent,
Meera Bhai Aided Primary School,
Aavikarai, Thiruvaiyaru Taluk,
Thanjavur District.

... Respondents



W.P.(MD).No.17390 of 2021

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.3830/C2/2019 dated .09.2020 and consequently direct the respondents 1 to 3 to grant approval of appointment of the petitioner with effect from 18.09.2017 as Secondary Grade Teacher in the 5th respondent School with all consequential benefits.

For Petitioner : Mr.A.Siva Subramanian

For R-1 to R-4 : Mr.M.Sarangan,
Additional Government Pleader

For R-5 : No appearance

ORDER

The present writ petition has been filed to quash the impugned order dated .09.2020 and consequently directing the respondents 1 to 3 to grant approval of appointment of the petitioner with effect from 18.09.2017 as Secondary Grade Teacher in the 5th respondent School with all consequential benefits.



W.P.(MD).No.17390 of 2021

WEB COPY

2. The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

(i) The petitioner was appointed as Secondary Grade Teacher in the 5th respondent School on 18.09.2017 in a vacancy that had arisen due to the promotion of then incumbent one V.Anbuselvi. The 5th respondent School is a non minority aided school having a sanctioned strength of two teachers i.e., one Head Master and one Secondary Grade Teacher. The 3rd respondent vide proceedings in O.M.No.1046/A4/2017 called for the 5th respondent to fill up the vacancy of one Secondary Grade Teacher post. The said vacancy had arisen due to the promotion of then incumbent one V.Anbuselvi to the post of Primary School Head Master on 01.06.2015. The 5th respondent School had sent a proposal seeking approval of the petitioner as Secondary Grade Teacher to the 3rd respondent. The same was forwarded to the 2nd respondent and the same was kept pending without consideration. Hence, the petitioner made several representations dated 05.06.2019 and 19.08.2019 seeking to pass suitable orders on the said proposal.



W.P.(MD).No.17390 of 2021

WEB COPY

(ii) However, the same was not considered and hence, the petitioner filed a writ petition in W.P.(MD)No.20637 of 2019 before this Court and this Court by order dated 25.09.2019 disposed the same by directing the 2nd respondent to consider the proposal submitted by the 5th respondent and pass appropriate orders within a period of eight (8) weeks from the date receipt of a copy of the aforesaid order. Despite the same, the 2nd respondent failed to comply the order passed by this Court. Hence, the petitioner was constrained to file a contempt petition in Cont.P(MD)No.791 of 2020 before this Court and on 25.09.2020, this Court posted the matter for reporting compliance and granted four (4) weeks time for official respondents. Pursuant to the same, the impugned order came to be passed by the 2nd respondent in Na.Ka.No.3830/C2/2019 dated . 09.2020 mechanically rejecting the proposal of the 5th respondent dated 19.09.2017 on the ground that the appointment cannot be approved. Assailing the same, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioner submitted that the petitioner was duly appointed in a sanctioned vacancy after prior approval from the 3rd respondent, vide proceedings in O.M.No.1046/A4/2017. Since the



W.P.(MD).No.17390 of 2021

petitioner has been duly approved in a sanctioned vacancy with the prior approval of the 3rd respondent, the 2nd respondent ought not to have passed the impugned order rejecting the proposal of the 5th respondent seeking approval of the petitioner's appointment. In view of the same, he pressed for allowing the writ petition.

4. The 3rd respondent has filed a counter and the learned Additional Government Pleader submitted that unless and until the district surplus in the post of Secondary Grade Teacher is exhausted, the question of approving the petitioner's appointment will not arise and pressed for dismissal of the writ petition.

5. Heard, the learned Counsels on either sides. Carefully perused the materials available on record.

6. This is the case where the petitioner is duly qualified in TET has been appointed in a sanctioned vacancy in the post of Secondary Grade Teacher in the 5th respondent School with the prior approval of the 3rd respondent. It is



W.P.(MD).No.17390 of 2021

needless to state that the 5th respondent School is a stand alone Non Minority Aided School. Hence, the crux of the case is no more res-integra and I have dealt with a couple of similar cases and W.P.(MD)No.20586 of 2022 dated 24.08.2023, I have passed favourable order to the petitioner thereat. For better appreciation, the relevant portion of the aforesaid case applicable to the facts and circumstances of this case is extracted as follows:

“6.The issue in this writ petition is no more res-integra. This Court dealt with a similar case in WP(MD)No.12909 of 2021 and the relevant portion is extracted hereunder:

“6.The issue raised in the writ petition is no longer res integra. Vide order dated 05.06.2023 in W.P(MD)No.8312 of 2023, I had held as follows: “6.As rightly pointed out by the learned counsel appearing for the petitioner, the management did not straightaway appoint the petitioner. When vacancy arose following the retirement of the incumbent, the management wrote to the department. The Chief Educational Officer, Madurai, vide order dated 03.05.2018 granted permission to the management for filling up the resulting vacancy. Only thereafter, after following the usual procedure, the petitioner was appointed. Therefore, the case on hand cannot be equated to other surplus cases. The principle of



W.P.(MD).No.17390 of 2021

estoppel will clearly operate in this case. 7.The petitioner took part in the recruitment process conducted by the management only after the competent authority gave green signal. Similar matters had already been allowed by me. The learned counsel appearing for the petitioner relied on the order dated 20.09.2022 made in W.P. (MD)No.8163 of 2020 (N.Prathibha V. The Director of School Education and Others). The approach adopted in the aforesaid case has to be adopted in the present case also. The order impugned in this writ petition is set aside.

8.Respondents 1 and 2 are directed to approve the petitioner's appointment and release the salary grant. The petitioner's appointment will be approved with effect from 31.05.2018. The arrears shall also be paid. The entire exercise shall be completed within a period of ten weeks from the date of receipt of a copy of this order. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed." I adopt the very same approach in the present case also. In as much as the petition mentioned candidate was appointed after getting permission from the competent authority, the order impugned in this writ petition is set aside. The respondents are directed to approve the appointment of Ms.P.Amutha and release the salary grant. The petitioner's appointment will be approved with effect from 29.07.2019. The arrears shall also be paid. The entire exercise shall be



W.P.(MD).No.17390 of 2021

completed within a period of ten weeks from the date of receipt of a copy of this order.”

7.I am fully in consonance to the order passed by this Court and in the light of the same, I hereby acknowledge the fact that prior permission has been granted by the Authorities concerned to fill up the vacancies, which has been arisen on 30.03.2016 and only thereafter, the petitioner school in accordance with adopting necessary procedures, appointed one V.Archana in the said post. Hence, necessarily the respondents ought to have approved the said appointment.”

8. In line of the order passed by me in the aforesaid case, I hereby quash the impugned proceedings of the 2nd respondent in Na.Ka.No.3830/C2/2019 dated nil.09.2020 signed as on 26.09.2020 and further direct the 3rd respondent to approve the appointment of the petitioner with effect from his date of appointment i.e., on 18.09.2017 with all consequential benefits within a period of eight (8) weeks from the date of receipt of a copy of this order.



W.P.(MD).No.17390 of 2021

WEB COPY

9. Accordingly, this Writ Petition is allowed. No costs.

12.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

- 1.The Director of Elementary Education,
College Road,
Chennai-06.
- 2.The Chief Educational Officer,
Office of the Chief Educational Officer,
Thanjavur.
- 3.The District Educational Officer,
Office of the District Educational Officer,
Thanjavur.
- 4.The Block Educational Officer,
Thiruvaiyaru, Thanjavur.



WEB COPY



W.P.(MD).No.17390 of 2021

L.VICTORIA GOWRI, J.

Sml

W.P.(MD).No.17390 of 2021

12.04.2024