



W.P.(MD)No.16785 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.16785 of 2024
and WMP(MD)Nos.14500 & 14502 of 2024

The Correspondent,
St.Antony's Higher Secondary School,
Kanyakumari-629 702,
Kanyakumari.

... 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,
Nagercoil, Kanyakumari District.
- 4.The District Educational Officer (Secondary),
Nagercoil,
Kanyakumari District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned proceedings issued by the 4th respondent District Educational Officer in Na.Ka.No.5361/Aa1/2024 dated 01.07.2024 and quash the same and further direct the 3rd respondent Chief Educational Officer to approve forthwith the appointment of J.Geetha as PG Assistant in Tamil w.e.f. 08.06.2017 in the petitioner school and disburse the grant-in-aid towards her salary and allowances.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.K.Ragatheesh Kumar, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.



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2. The petitioner has filed this writ petition challenging the impugned proceedings issued by the 4th respondent District Educational Officer in Na.Ka.No.5361/Aa1/2024 dated 01.07.2024 further to direct the 3rd respondent Chief Educational Officer to approve forthwith the appointment of J.Geetha as PG Assistant in Tamil w.e.f. 08.06.2017 in the petitioner school and disburse the grant-in-aid towards her salary and allowances.

3. The petitioner School appointed one J.Geetha as PG Assistant in Tamil with effect from 08.06.2017 in the vacant post arose due to the promotion of the then incumbent P.Theres Thenmozhi. The petitioner is a minority institution administered by the Roman Catholic Diocese of Kottar. When the proposal has been sent to the District Education Officer vide letter dated 02.07.2019, it has been rejected by citing the reason that the said Geetha does not have the same degree in both UG and PG Degree. Reference was made to Annexure V (4) of the Tamil Nadu Private Schools Regulations Rules, 2023, which would



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prescribe the qualification as under:

- “(i) A Masters degree in Tamil or its equivalent and
(ii) B.T or B.Ed degree or its equivalent.*

Provided that for appointment to the post by recruitment by transfer from the Post Tamil Pandit in the High School, the Pandit Training or Secondary Grade Training shall be considered as equivalent qualification to the B.T or B.Ed degree.

Provided further that other things being equal, preference shall be given to those who have studied Tamil as a Main subject both in degree and Master degree levels.”

4. The learned counsel for the petitioner submitted that even according to the above Rule, the said Geetha is eligible to be appointed to the post of PG Assistant (Tamil), if she possesses Master Degree in Tamil. The said incumbent has the educational qualification in B.Sc (Physics), M.A(Tamil) and B.Ed., Degree. The petitioner claims that she would fall under the second proviso to the above Rule which would state that other things being equal, preference shall be given to those who had studied Tamil as main subject both in UG Degree and Master Degree. The above Rule only states about the preference in the matter of appointment



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and does not state that the persons who have UG Degree in other subject are not eligible for appointment. The main contention is that there should be a Master Degree in Tamil or its equivalent. The said incumbent very much has the said qualification and the second qualification is to have BT or B.Ed Degree. As equal she possesses B.Ed Degree as well. Only difference is that she has got UG Degree in Physics. Even according to the second proviso, the said qualification is not a bar for appointment eventhough the candidates who have both UG and PG Degree in Tamil can have a preferential advantage.

5. In the impugned order, reference has been made to the Annexure-IV Sub Clause (6) of the Tamil Nadu Private Schools Regulations Rules, 2023, which would stipulate that PG Degree and UG Degree should be in the same discipline. However, the revised Regulations could have come into effect only on the date from which it has been given effect. As the revised Rules has given effect on and from 13.01.2023, the same cannot be retrospectively made applicable to the



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case of the said incumbent J.Geetha as she has been appointed on 08.06.2017. Therefore, the appropriate Rule applicable to her is the old regulations.

6. Since the respondents had chosen to reject the proposal by looking into the new regulations unmindful of the date of the appointment of the said J.Geetha, the impugned order requires interference. Similarly placed person has filed a writ petition in W.P(MD)No.8378 of 2012 seeking similar relief in accordance with the old regulations, challenging the order of rejection on account of her cross major and this Court has allowed the same. The appeal filed by the Government has been dismissed by the Division Bench vide order dated 19.02.2018 in W.A. (MD)No.1418 of 2014, by making the following observations:

“3.The only issue is whether the petitioner, who holds a cross major degree, i.e., who is a B.Sc.[Physics] candidate, holds a Master Degree in English with B.Ed. qualification, is entitled to be appointed as P.G. Assistant in English. Two contentions are advanced before us. The first one is that in terms of the Tamil Nadu Recognized



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Private Schools (Regulation) Rules, 1974 and in particular, under Annexure - V of the Rules in Chapter IV(4), the preference is to be given to those persons, who have studied the same subject in degree and Master's degree level. This Rule was considered by the Writ Court and was rightly held that there is no bar, for considering a candidate for appointment, as the Rule provides for grant of preference. Thus, there is no illegality in considering a person with cross major degree. Further, the Writ Court, took into consideration the decision of the Hon'ble Division Bench of this Court in Director of School Education, Chennai - 6 and others v. Geldon Wifred Viole and another reported in 2009(2) TLNJ 101 (Civil) and allowed the writ petition.

4.In the light of the finding recorded by the Writ Court and the decision of the Division Bench rendered to therein and as there is no prohibition for considering a cross major degree candidate, we find that the appellants have not made out any ground, to interfere in the order passed in the writ petition. Accordingly, the writ appeal fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.”

7. The petitioner's case falls under the old Regulations which



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would be in force at the time of the appointment of the said J.Geetha.

Hence, the respondents are bound to consider the proposal of the appointment of the said J.Geetha in the light of the old Regulations and in the light of the earlier judicial pronouncements made in this regard.

8. With the above observation, this writ petition is **disposed of** and the respondents are directed to consider the proposal of the appointment of J.Geetha in the light of the old Regulations and also in the light of the earlier judicial pronouncements made in this regard and pass appropriate orders for approving the appointment of J.Geetha, within a period of four weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petitions are closed.

24.07.2024

NCC: Yes/No
Index : Yes/No
PJL



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- 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,
Nagercoil, Kanyakumari District.
 - 4.The District Educational Officer (Secondary),
Nagercoil,
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R.N.MANJULA, J.

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