



W.P.(MD).No.18134 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.18134 of 2024

A.John

... Petitioner

-VS-

1. The District Educational Officer,
(Elementary Education)
Valliur, Tirunelveli District.

2. The Block Educational Officer,
Kalakadu, Tirunelveli District.

3. The Correspondent,
TDTA Middle School,
Keelasadaiyamankulam,
Moondradippu, Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the first respondent District Educational Officer vide impugned proceedings in Na.Ka.No.1941/A1/2023 dated --07.2024 and quash the same and further direct the first respondent District Educational Officer herein to approve forthwith the appointment of petitioner as Secondary Grade Teacher in the third respondent School namely, TDTA



W.P.(MD).No.18134 of 2024

Middle School, Keelasadayamankulam w.e.f. 05.10.2017 and disburse the grant-in-aid towards his salary and allowances w.e.f. The said date of with all attendant benefits.

For Petitioner : M/s.A.Amala

For Respondent Nos. : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

The instant writ petition has been filed by a Secondary Grade Teacher appointed to the third respondent school challenging the order passed by the first respondent dated 05.07.2024, wherein, a proposal forwarded by the management for approval has been rejected.

2. The petitioner herein was appointed as a Secondary Grade Teacher on 05.10.2017, when the management forwarded the proposal for approval initially the said approval was rejected in the year 2020, on the ground that there are surplus teachers in the Corporate Management. This order was put to challenge in the writ petition in W.P.(MD).No.22094 of 2023. This Court by an order dated 27.11.2023, had set aside the said order and directed the first respondent to verify whether there are any surplus teachers in the Corporate Management. Thereafter, alleging non-compliance orders of this



W.P.(MD).No.18134 of 2024

Court a contempt petition came to be filed in Cont.P.(MD).No.1301 of 2024. Pending Contempt Petition, the present impugned order has been passed and the contempt petition was closed.

3. A perusal of the impugned order reveals that the proposal has been rejected on the ground that the petitioner has not passed TET examination and there are surplus Secondary Grade Teachers in the Corporate Management which administers the third respondent school. This order is put to challenge in the present writ petition.

4. According to the learned Counsel appearing for the writ petitioner, the third respondent institution, being a minority institution, passing of TET examination is not mandatory. He further contends that orders were passed in W.A.(MD).No.76 of 2019, dated 31.03.2021, in which aided school was considered to be a separate unit and the Corporate Surplus was not taken into consideration. Therefore, the appointment of the writ petitioner having been made on 05.10.2017, the authorities should only refer to the staff fixation order for the relevant academic year and pass orders.



W.P.(MD).No.18134 of 2024

WEB COPY

5. Per contra, the learned Additional Government Pleader appearing for the respondent herein had contended that when there are surplus teachers in other schools of the Corporate Management, the appointment of the writ petitioner cannot be approved. He further contends that the petitioner having not passed TET examination, his appointment cannot be approved.

6. I have carefully considered the submissions made on either side and perused the materials available on record.

7. The Hon'ble Division Bench of our High Court in a judgment reported in 2023(3) L.W.114, Para 74(c) has categorically held that for being appointed as a teacher in a minority institution, a pass in TET Examination is not mandatory. Therefore, such a ground cannot be raised by the Educational Authorities. As far as the plea of Corporate Surplus is concerned, the same was introduced for the first time by the Hon'ble Division Bench in a judgement reported in W.A.(MD).No.76 of 2019 batch cases dated 31.03.2021. Till such time each school (administered by corporate management) was treated as an individual unit and surplus was decided only



W.P.(MD).No.18134 of 2024

WEB COPY

based upon the student strength of that school. In such circumstances, whenever an appointment is made prior to the date of the judgement namely 31.03.2021, the authorities cannot point out Corporate Surplus as a reason for rejecting the order of approval.

8. In view of the above said facts, the order impugned in this writ petition is hereby set aside and the respondents are directed to approve the appointment of the writ petitioner with effect from 05.10.2017 with all attendant benefits and pass orders within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the above said observations, this writ petition stands allowed.

No costs.

09.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
gvn



WEB COPY



W.P.(MD).No.18134 of 2024

R.VIJAYAKUMAR,J.

gvn

To

1. The District Educational Officer,
(Elementary Education)
Valliur, Tirunelveli District.

2. The Block Educational Officer,
Kalakadu, Tirunelveli District.

3. The Correspondent,
TDTA Middle School,
Keelasadaiyamankulam,
Moondradippu, Tirunelveli District.

W.P(MD)No.18134 of 2024

09.12.2024