



W.P.(MD)No.18318 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.18318 of 2024

and

W.M.P.(MD).Nos.15597 & 15600 of 2024

S.Rathnabala

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented 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,
Madurai Distrit at Madurai.
- 4.The District Educational Officer (Secondary),
Madurai, Madurai District.
- 5.The Correspondent,
TELC Girls Higher Secondary School,
Usilampatti,
Madurai District-625 532.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining



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to the impugned proceedings issued by the third respondent / Chief Educational Officer in Mu.Mu.No.4203/A5/2020, dated 29.07.2024 and quash the same and further direct the respondents to approve the appointment of the petitioner as BT Assistant in English with effect from 09.08.2017 in the fifth respondent School, viz., TELC Girls Higher Secondary School, Usilampatti, Madurai District and disburse grant-in-aid towards her salary and other monetary benefits.

For Petitioner : Mr.S.Xavier Rajini

For Respondents : Mr.T.Amjadkhan,
Government Advocate

ORDER

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

2. Heard Mr.S.Xavier Rajini, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents.

3. The petitioner is appointed as B.T. Assistant (English) in the fifth respondent School, viz., TELC Girls Higher Secondary School, Usilampatti, on



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09.08.2017 due to the promotion of then incumbent, T.Juliet Gnanapon Nesammal. The State Government has already announced that the posts of Secondary Grade Teachers in Standards VI to VIII would be automatically upgraded as Graduate posts as and when they fell vacant vide the Government Order in G.O.(Ms).No.79 (School Education Department), dated 21.06.2022. The petitioner joined in the fifth respondent School on 09.08.2017.

3.1. The Administrator of the fifth respondent School submitted a proposal to the fourth respondent / the District Educational Officer on 18.12.2017 to approve the petitioner's appointment as B.T. Assistant (English) in the fifth respondent School with effect from 09.08.2017 and to disburse the grant-in-aid towards her salary. But the fourth respondent has not passed any orders. Hence, the petitioner has filed a Writ Petition before this Court in W.P. (MD).No.4341 of 2018 and this Court vide order dated 27.03.2018, allowed the said Writ Petition and directed the District Educational Officer to approve the appointment of the petitioner and to disburse the grant-in-aid towards her salary and other monetary benefits. Against which, the then Administrator in the TELC Management filed a Writ Appeal before this Court in W.A.(MD).No.1100 of 2018 and this Court vide order, dated 19.09.2018 modified the order of the learned Single Judge and directed the Chief



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Educational Officer / third respondent to consider the appointment of the petitioner. But the Chief Educational Officer has not passed any orders. Hence, the petitioner has filed a Contempt Petition before this Court in Cont.P. (MD).No.1196 of 2024. But the third respondent has passed the impugned order on 29.07.2024 and declined to approve the appointment of the petitioner in the fifth respondent School. The said Contempt Petition was closed by this Court on 19.09.2018 giving liberty to the petitioner to challenge the impugned order passed by the third respondent. Aggrieved over the same, the petitioner has filed the present Writ Petition

4. The issue on hand is no longer a *res-integra*. This Court has already dealt a similar issue in ***W.P.(MD).No.9018 of 2024 dated 12.04.2024***, in the case of ***the Director of School Education, College Road, Chennai-600 006 and others***. The similarly placed person has approached this Court through the above petition and got orders as follows :

“9. In the Government Order issued in this regard in G.O.Ms.No. 79, School Education Department, dated 14.06.2002, it is mentioned that from 2002-2003 academic year, whenever a vacancy arises in the post of Secondary Grade Teacher for teaching classes VI to VIII, the posts would be converted to that of Middle Grade Graduate Teacher in a phased manner and B.Ed., qualified teachers would be appointed in



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Secondary Grade Teachers scale, but with one increment. In the judgment of this Court made in W.A(MD)No.1497 of 2017 (CEO and another v. Joseph.. and another) and the Division Bench judgment reported in 2018(1)WLR410 (The Government of Tamil Nadu rep. by the Secretary to Government, Department of School Education v. J.Remila and others), it is held that once Secondary Grade teacher post was upgraded to Graduate teacher, then whoever assumes the charge in the vacancy so arises on promotion of Secondary Grade Teacher, would automatically get the benefit of upgradation. In other words, the posts get automatically upgraded to BT Assistant from Secondary Grade Teacher on account of a Teacher retires, resigns or gets promoted.

10. In the instant case, the petitioner who was already a BT Assistant got transferred to the transferee school in the vacancy arose due to promotion of the incumbent in the Secondary Grade post which would automatically get upgraded in pursuant to the G.O.Ms.No.79, School Education Department, dated 14.06.2002. In such case, the respondent ought to have approved the post of the petitioner as BT Assistant from the date of his assumption of the charge ie., on 26.10.2021 and not from the date when permission was granted for conversion, ie., 16.08.2023. Since the impugned order has been passed contrary to the Government Order as well as the settled position of law in this regard as held by the various judicial pronouncements above mentioned, it is liable to be set aside.

11. In the result, this writ petition is allowed and the impugned order of the second respondent in Oo.Mu.No. 6157/a2/2023 dated 02.01.2024 is set aside. The second respondent is directed to approve the



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petitioner's post as BT Assistant (English) in the 4th respondent school, namely Amala Annai High School, Rengasamuthiram with effect from 26.10.2021 within a period of eight weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

5. In view of the automatic upgradation as dealt in the above case, the Writ Petition is **allowed** and the impugned order passed by the third respondent / Chief Educational Officer in Mu.Mu.No.4203/A5/2020, dated 29.07.2024 is set aside and the third respondent is directed to approve the petitioner's post as BT Assistant (English) in the fifth respondent school, viz., TELC Girls Higher Secondary School, Usilampatti, with effect from 09.08.2017 within a period of eight weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
TSG



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To

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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,
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- 5.The Correspondent,
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Usilampatti,
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R.N.MANJULA, J.

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