



W.P.(MD).No.20501 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.20501 of 2022

and

W.M.P.(MD)Nos.14848 and 14849 of 2022

B.George

...Petitioner

Vs.

1.The Director of Elementary
Education, College Road,
Chennai-600 006.

2.The District Educational Officer,
Ramanathapuram,
Ramanathapuram District.

3.The Block Educational Officer,
Mandapam at Mandapam camp,
Ramanathapuram District.

4.The Correspondent,
St.Mary's Primary School,
Olaikuda, Rameswaram-623 529,
Ramanathapuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorarified Mandamus, calling for



W.P.(MD).No.20501 of 2022

records relating to the impugned proceedings issued by the 2nd respondent DEO vide his proceedings in O.Mu.No.1484/ A4 /2021 dated 07.09.2021, quash the same as illegal and further direct the 2nd respondent District Educational Officer to approve forthwith the appointment of petitioner as Secondary Grade Teacher in the 4th respondent school namely, St.Mary's Middle School, Olaikuda, w.e.f. the date of appointment viz., 13.10.2016 with all attendant benefits including the arrears of salary and allowances.

For Petitioner	: Mr.K.Ragatheesh Kumar
For R-1 to R-3	: Mr.P.T.Thiraviyam, Government Advocate

ORDER

The present writ petition has been filed seeking direction to quash the impugned proceedings issued by the 2nd respondent DEO dated 07.09.2021 and consequently, directing the 2nd respondent District Educational Officer to approve forthwith the appointment of petitioner as Secondary Grade Teacher in the 4th respondent school namely, St.Mary's Middle School, Olaikuda, w.e.f. the date of appointment viz., 13.10.2016 with all attendant benefits including the arrears of salary and allowances.



W.P.(MD).No.20501 of 2022

WEB COPY

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

The 4th respondent School is a Minority Educational Institution administered by the corporate management namely, Roman Catholic Diocese of Sivagangai. The petitioner was appointed as Secondary Grade Teacher in the 4th respondent school which fell vacant on 13.10.2016 due to the promotion of the then incumbent Tmt.S.Suriya Nirmala Mary as Headmistress. In the said vacancy, the 4th respondent school appointed the petitioner as Secondary Grade Teacher with effect from 13.10.2016. Thereafter, the 4th respondent School had sent a proposal to the 2nd respondent DEO through proper channel to approve the appointment of the petitioner. The same was not acted upon. Hence, the petitioner was constrained to file a writ petition in W.P.(MD)No18774 of 2018 seeking to direct the respondents to approve the petitioner's appointment as Secondary Grade Teacher. During the pendency of the said writ petition, the impugned proceedings dated 07.09.2021 came to be passed. Challenging the same, the present writ petition came to be filed.



W.P.(MD).No.20501 of 2022

WEB COPY

3. The learned counsel appearing for the petitioner submitted that the impugned order has been passed relying upon the pendency of the W.A.(MD) No.76 of 2019 batch stating that unless and until the surplus teachers working under the Corporate Management / other Management are exhausted, the approval of appointment of the petitioner cannot be considered. However, he further submitted that the impugned order was passed by the 2nd respondent on 07.09.2021, after the disposal of the W.A.(MD)No.76 of 2019 batch on 31.03.2021. After the disposal of the said Writ Appeal relying upon the interim order passed by division bench in the aforesaid Writ Appeal, the impugned order in this writ petition came to be issued by the 2nd respondent. That apart, the staff fixation pertaining to the 4th respondent School arrived by the 2nd respondent himself has been placed before him and a careful perusal of the same would reveal that there was no surplus teacher as on the date of staff fixation during the academic year 2014-2015 and 2015-2016 and the appointment has been made by the 4th respondent School only in a sanctioned vacancy which had arisen due to the promotion of the then incumbent. In view of the same, the learned Counsel appearing for the petitioner contended that the impugned order need to be interfered and pressed for allowing the writ petition.



W.P.(MD).No.20501 of 2022

WEB COPY

4. Per contra, the 2nd respondent has filed a counter affidavit and the learned Government Advocate vehemently submitted that the 4th respondent school has only one sanctioned post of Secondary Grade Teacher, but more than 51 Secondary Grade Teachers in the corporate management has been rendered as surplus and they are receiving salary without any work. In view of the same, until and unless the entire surplus within the corporate management is exhausted in accordance with the G.O.Ms.No.165 of School Education Department, dated 17.09.2019 proposal to approve the appointment of the petitioner cannot be considered and the same has been readily rejected. Relying upon the judgment passed by Hon'ble Division Bench of this Court in W.A. (MD)No.320 of 2023, dated 20.11.2023, the learned Government Advocate submitted that on identification of surplus teachers they ought to have been deployed in the vacancy available in the same school or in any other school within the Corporate management. On that basis, he pressed for dismissal of the writ petition.



W.P.(MD).No.20501 of 2022

WEB COPY

5. Heard, the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents. Carefully perused the materials available on record.

6. Even according to the contentions submitted by the learned Government Advocate that impugned order has been passed relying upon G.O.Ms.No.165. It is noted that the same has been declared inoperative by the mandates of W.A.(MD)No.76 of 2019 batch by the judgment passed by the Hon'ble Division Bench of this Court dated 31.03.2021. That apart, the appointment of the petitioner was made as early as on 30.10.2016. In view of the same, this Court hereby observing that the petitioner has been appointed in the sanctioned vacancy which had arisen due to the promotion by the then incumbent and also considering that, the 2nd respondent himself has issued a staff fixation to the 4th respondent school that had been no surplus teacher in the 4th respondent school during the academic year 2015-2016, I don't find any infirmity in the appointment of the petitioner.



W.P.(MD).No.20501 of 2022

WEB COPY

7. In view of the same, this Court hereby quash the impugned proceedings dated 07.09.2021 passed by the 2nd respondent and further direct the 2nd respondent to approve the appointment of the petitioner with effect from his date of appointment within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition stands allowed. No costs.
Consequently, connected miscellaneous petitions are closed.

15.03.2024

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

To

1.The Director of Elementary
Education, College Road,
Chennai-600 006.

2.The District Educational Officer,
Ramanathapuram,
Ramanathapuram District.

3.The Block Educational Officer,
Mandapam at Mandapam camp,
Ramanathapuram District.



W.P.(MD).No.20501 of 2022

WEB COPY

4. The Correspondent,
St.Mary's Primary School,
Olaikuda, Rameswaram-623 529,
Ramanathapuram District.



WEB COPY



W.P.(MD).No.20501 of 2022

L.VICTORIA GOWRI, J.

Sml

W.P.(MD).No.20501 of 2022

15.03.2024