



WP(MD) No.20779 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.20779 of 2022

and

W.M.P(MD)Nos.15078 & 15079 of 2022

X.Kavitha

St. Joseph R.C.Primary School,
Srivilliputhur.

... Petitioner

Vs.

1.The District Educational Officer,
The Office of the District Educational Officer,
Virudhunagar District.

2.The Block Educational Officer,
The Office of the Block Educational Officer,
Srivilliputhur,
Virudhunagar District.

3. The Correspondent,
St. Joseph R.C.Primary School,
Srivilliputhur - 626 125.

...Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings dated 31.05.2019 in A. Thi. Mu. No.2246/A3/2019, on the file of the 1st respondent and the consequential order dated -.07.2019 in Na.Ka.No. 320/AA1/2018, on the file of the 2nd respondent and quash the same and directing the respondents, to accord approval to the appointment of the petitioner X.Kavitha, working as Secondary Grade Assistant, in the 3rd respondent at St. Joseph R.C.Primary School, Srivilliputhur - 626 125, w.e.f. 07.08.2017, and release salary with all monetary and service benefits.

For Petitioner : Mr.FR.S.Savarimuthu
for M/s.Father Xavier Associates,
For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

The present writ petition has been filed challenging the impugned proceedings in A. Thi. Mu. No.2246/A3/2019 dated



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31.05.2019 of the 1st respondent and the consequential order dated - 07.2019 in Na.Ka.No.320/AA1/2018, of the 2nd respondent and directing the respondents, to accord approval to the appointment of the petitioner X.Kavitha, working as Secondary Grade Assistant, in the 3rd respondent at St. Joseph R.C.Primary School, Srivilliputhur - 626 125, w.e.f. 07.08.2017, and release salary with all monetary and service benefits.

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

3. The petitioner has been appointed as a Secondary Grade Teacher on 07.08.2017 and the proposal has been sent to the respondents for approval. However, the same has been rejected. The reason for rejecting the appointment of the petitioner is that there are surplus available in the corporate management under which the third respondent school comes.



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4. The learned Government Advocate submitted that even though the school comes under the corporate management, the vacancy in respect of the sanctioned strength of the respective school, shall not be filled up unless the excess staff identified in all other schools under the same corporate management and the joint management are exhausted by redeployment process in the group of schools under the same management.

5. However, the learned counsel for the petitioner submitted that the above procedure would come into effect only from 31.03.2021, on which date the order dated 31.03.2021 in ***W.A.(MD).Nos.76 of 2019 etc. batch (The Secretary to Government Government of Tamil Nadu School Education Department, Fort St. George, Chennai-9 vs Iruthaya Amali)*** came to be passed.

6. However, the subject matter of W.A(MD)No.76 of 2019 batch would also include the challenge to G.O.(Ms)No.525, dated 29.12.1997, which would state about the guidelines, in which, the staff



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strength in respect of teaching staff category refixed and about redeployment of excess staff from one school to another. Prior to the judgment in W.A.(MD).No.76 of 2019 batch, dated 31.03.2021, even if a group of schools come under the same management, they have been considered as separate units. But after the guidelines have been issued in the above case, the several schools which come under the same corporate management, are considered as one unit for the purpose of identifying surplus. Hence, in the subsequent order passed by the Division Bench of this Court in W.A.No.861 of 2021 that so far as the appointment made by any of the schools falling under the same school management, excess or surplus staff in all the schools, falling under the same management, should be identified and deployed before any fresh appointments are made even as against the sanctioned vacancies. Since the above Government Order has been passed in the year 1997 and its validity has been upheld in W.A.(MD).No.76 of 2019 batch dated 31.03.2021 as against the corporate management by settling the fact that all schools come under the single corporate management shall be considered as one unit, there cannot be any confusion that the school, where the petitioner is working, has to wait to make further



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appointments until the surplus identified and redeployed in all the schools coming under the same management.

7. But the learned counsel for the petitioner endowed to make a distinction to the judgment of W.A.(MD)No.861 of 2021 by submitting that the appointment in respect of that matter relates back to the year 2012 and in the instant case, the appointment has been made in the year 2017. So the position that was existed from the date when the petitioner was appointed ie., on 07.08.2017 to the order passed in W.A. (MD).No.76 of 2019 batch, dated 31.03.2021, all the schools come under the same management have been considered as a single unit and orders have been issued in several cases only on the above appreciation.

8. The appointments that were made even by the schools falling under corporate management prior to 31.03.2021 shall be considered only as an appointment made by the individual school. Since the appointment of the petitioner Kavitha relates back to the year 2017 and the said school is a minority institution, for which, the principle of



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surplus will not be applicable prior to 31.03.2021 and hence, the impugned order is liable to be set aside.

9. On the very same principle, the earlier order passed in ***W.P.(MD)No.7479 of 2024, dated 17.04.2024***, wherein, this Court has observed as under :

“5. The learned counsel for the petitioner also submitted that the Government Order in G.O.Ms.No. 165 dated 17.09.2019 has been kept inoperative in W.A.(MD).No.76 of 2019 batch dated 31.03.2021 in the case of The Secretary to Government Government of Tamil Nadu School Education Department, Fort St. George, Chennai – 9 vs Iruthaya Amali and the relevant portion of the order is extracted hereunder:

“95. In view of the aforesaid discussions, we are inclined to pass the following orders in this batch of cases :

....

(o) In view of the aforesaid, the G.O.Ms.No. 165, School Education [Tho.Ka.2(1)] Department, dated 17.09.2019 is hereby declared to be inoperative.”

6. The petitioner's appointment has been made



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prior to the order dated 31.03.2021 passed in W.A. (MD).No.76 of 2019 batch. Hence, the petitioner School can get the advantage of getting approval of the appointment of Sunitha as B.T.Assistant Maths. Therefore, the respondents cannot decline the approval of the appointment due to the reasons of TET eligibility or the deployment of the alleged surplus.

7. In view of the above stated reasons, this Writ Petition is allowed and the impugned order dated 08.09.2020 is set aside. The respondents 3 and 4 are directed to consider and pass orders regarding approval of appointment of Sunitha as B.T.Assistant Maths with effect from 01.08.2017. The said exercise shall be completed 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.”

10. In view of the above stated reasons, this Writ Petition is **allowed** and the impugned proceedings, dated 31.05.2019 of the first respondent and the consequential order dated -.07.2019 of the second respondent are set aside. The respondents are directed to consider and pass orders regarding approval of appointment of X.Kavitha as



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Secondary Grade Assistant in third respondent school with effect from 07.08.2017. The said exercise shall be completed 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.

18.06.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM



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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.20779 of 2022

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