



W.P.(MD).No.18987 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.18987 of 2023

and

W.M.P.(MD).Nos.15770 and 15772 of 2023

D.Arulsamy

...Petitioner

Vs

- 1.The Government of Tamil Nadu,
Represented by its Additional Chief Secretary,
Department of School Education,
Fort St.George,
Chennai – 9.
- 2.The Director of Elementary Education,
DPI Campus,
College Road,
Chennai – 6.
- 3.The District Elementary Educational Officer,
The Office of the Chief Educational Officer,
Thanjavur.
- 4.The Block Educational Officer,
The Office of the Block Educational Officer,
Thiruvaiyaru, Thanjavur District.



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5.The Correspondent,
St.Rita's Middle School,
Thirupanthurithi, Thiruvaiyaru Union,
Thanjavur 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 the records pertaining to the impugned proceedings, dated 16.09.2020 in O.Mu.No.3089/A8/2020, on the file of the third respondent and consequential proceedings, dated 14.09.2021, in O.Mu.No.862/A2/2021, on the file of the fourth respondent and quash the same, directing the respondents to accord approval to the appointment of the petitioner, Mr.D.Arulsamy, working as Physical Education Teacher, in the fifth respondent, St.Rita's Middle School, Thirupanthurithi, Thiruvaiyaru Union, Thanjavur District, with effect from 08.03.2018, and release the salary with all monetary and service benefits.

For Petitioner : Mr.S.Savarimuthu
For M/s.Father Xavier Associates

For R-1 to R-4 : Mr.T.Amjadkhan
Government Advocate



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ORDER

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Heard Mr.S.Savarimuthu, for M/s.Father Xavier Associates, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents 1 to 4.

2. This Writ Petition has been filed seeking to quash the order of the third respondent dated 16.09.2020 and consequential proceedings of the fourth respondent dated 14.09.2021 and directing the respondents to accord approval to the appointment of the petitioner as Physical Education Teacher, in the fifth respondent School with effect from 08.03.2018 and release the salary with all monetary and service benefits.

3. Mr.S.Savarimuthu, learned counsel for the petitioner submitted that the petitioner has been appointed as a Physical Education Teacher on 08.03.2018 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. Similar issue has already been dealt by this Court in ***W.P.(MD)No.20779 of 2022 dated 18.06.2024***, wherein the following observations have been made:

“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 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



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

5. In the instant case, the appointment of the petitioner was made on 08.03.2018 which is prior to the judgment ***dated 31.03.2021*** rendered in the case of ***Secretary to Government and others Vs Iruthaya Amali and another (W.A.(MD)No.76 of 2019)***, by framing guidelines as to how the surplus in the School coming under the same Corporate Management should be dealt.

6. Since the appointment has been made even prior to passing of the said judgment, nothing would prevent the respondents from giving approval to the appointment of the petitioner.

7. In view of the above stated reasons, this Writ Petition is **allowed** and the impugned proceedings in O.Mu.No.3089/A8/2020 dated 16.09.2020 and the consequential impugned proceedings in O.Mu.No. 862/A2/2021 dated 14.09.2021 are set aside. The respondents are



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directed to consider the petitioner's claim with regard to approval of appointment as Physical Education Teacher with effect from 08.03.2018, if the proposal sent by the fifth respondent School is otherwise in order and pass orders, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

19.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

- 1.The Additional Chief Secretary,
The Government of Tamil Nadu,
Department of School Education,
Fort St.George,
Chennai – 9.
- 2.The Director of Elementary Education,
DPI Campus,
College Road,
Chennai – 6.
- 3.The District Elementary Educational Officer,
The Office of the Chief Educational Officer,



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Thanjavur.

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4.The Block Educational Officer,
The Office of the Block Educational Officer,
Thiruvaiyaru, Thanjavur District.

5.The Correspondent,
St.Rita's Middle School,
Thirupanthurithi, Thiruvaiyaru Union,
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R.N.MANJULA, J.

Nsr

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