



W.P.(MD)No.20628 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 10.07.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.20628 of 2021

S.Poulraj

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
School Education Department,
Secretariat,
Chennai – 600 009.
- 2.The Director of Elementary Education (Aided Schools),
DPI Campus, College Road,
Chennai – 600 006.
- 3.The District Educational Officer,
Kovilpatti,
Thoothukudi District.
- 4.The Block Educational Officer,
(Formerly Assistant Elementary Educational Officer),
Kayathar Block, Kayathar,
Thoothukudi District.
- 5.The Superintendent,
Catholic Priest District Schools,
Thembavani Thottam,
Palayamkottai,
Tirunelveli.
- 6.The Correspondent,
St. Marys Primary School,
Kalugumalai,
Thoothukudi District.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to grant approval for the appointment of petitioner as Secondary Grade Teacher from 15.06.2011 to 01.03.2016 duly granting annual periodical increments and grant all other service and monetary benefits, considering the petitioner's representation dated 23.06.2021.

For Petitioner : Mr.G.Karthik,
For Mr.S.Rajasekar
For Respondents : Mr.M.Saragan
Additional Government Pleader

ORDER

This Writ Petition has been filed to direct the respondents 1 to 4 to grant approval for the appointment of petitioner as Secondary Grade Teacher from 15.06.2011 to 01.03.2016, duly granting annual periodical increments and grant all other service and monetary benefits, considering the petitioner's representation dated 23.06.2021.

2.The facts, which lead to the filing of the Writ Petition in brief is as follows:-

(i)The petitioner was appointed as a Secondary Grade Teacher in the sixth respondent School, which is a Minority Aided Institution under the fifth respondent Management. The said appointment came to be made in a vacancy, which had arisen on the retirement of one Anburaj, Secondary Grade Teacher on 31.05.2021. The petitioner jointed duty on 15.06.2011. Later the sixth respondent had sent a proposal to the third



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respondent, seeking approval of his appointment and the same was recommended by the fifth respondent as well. However, vide letter dated 02.03.2012, the third respondent returned the proposal seeking approval of the petitioner's appointment, for the reason that there were 16 surplus Teachers in the Schools under the control of fifth respondent Corporate Management during the academic year 2011 – 2012. Following which, the fifth respondent had sent a proposal dated 18.04.2012, for deployment of 16 surplus Teachers. After inspection, the District Elementary Educational Officer, Tirunelveli had sent a proposal dated 12.06.2012, to the second respondent seeking permission that out of total 21 surplus Teachers as on 31.05.2012, six retirement vacancies would be filled up and the remaining would be deployed against 17 additional requirement of Teachers, thereby reducing the surplus Teachers in the Schools under fifth respondent in Tirunelveli District as nil.

(ii) Subsequent to same, the fifth respondent had furnished “No surplus Teacher” list as on 03.08.2018 to the third respondent so as to grant approval to the petitioner's appointment. But without assigning any reason, neither the appointment of the petitioner was approved nor salary paid for his service from 15.06.2011. Hence, the petitioner filed W.P.(MD)No.22978 of 2015 before this Court, seeking grant of approval of his appointment and this Court, by its order dated 06.01.2016, passed an interim order holding that the approval cannot be denied on the



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ground that there are surplus Teachers in the Corporate Management of the School. Despite the same, the appointment was not approved and hence, the petitioner filed a Contempt Petition in Cont.P.(MD)No.1526 of 2016. During the pendency of the same, the respondents 3 and 4 preferred a Writ Appeal in W.A.(MD)No.337 of 2017 and the Hon'ble Division Bench of this Court was pleased to dismiss the same. Following which, the third respondent approved the appointment of the petitioner with effect from 02.03.2016. Hence, the petitioner has made a representation on 23.06.2021, seeking to grant approval of his appointment from 15.06.2011 i.e., from the date of his original appointment and the same was not considered. Hence, this Writ Petition came to be filed.

3.The learned counsel appearing for the petitioner submitted that the petitioner's appointment ought to have been approved from the date of his original appointment from 15.06.2011 not from 02.03.2016, pursuant to the dismissal of the Writ Appeal in W.A.(MD)No.337 of 2017, i.e., from the year of dismissal of the said Writ Appeal and pressed for allowing the Writ Petition.

4.The third respondent has filed a counter affidavit and the learned Additional Government Pleader appearing for the respondents submitted that the approval of the petitioner with effect from 15.06.2011 could not



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be considered, for the reason that the petitioner was not qualified in TET and due to the existence of surplus Teachers during that period of time and pressed for dismissal of the Writ Petition.

5. Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents and carefully perused the materials available on record.

6. However, this issue is no more *res integra*. Considering the fact that already this Court in W.P.(MD)Nos.1187 and 1189 of 2020 and batch, had considered a similar case of four Teachers and has passed favourable orders, holding that requirements of pass in TET is not applicable to the Teachers appointed in Minority Educational Institution and that the existence of surplus Teachers in the Corporate Management will not prevent the respondents Authority from approving the appointment of Teachers in any of the Schools under Corporate Management. Hence, this Court hereby direct the third respondent to consider the petitioner's representation dated 23.06.2021 and pass appropriate orders granting approval of the appointment of the petitioner as Secondary Grade Teacher from 15.06.2011, in the line of the order passed by this Court in W.P.(MD)Nos.1187 and 1189 of 2020 and W.P. (MD)No.1699 of 2021, dated 26.09.2023, within a period of 12 weeks from the date of receipt of copy of this order. However, it is made clear



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that the approval shall be granted to the petitioner, if he is otherwise qualified and subject to the outcome of S.L.P. Diary(Civil) No.17702 of 2021.

7.Accordingly, the Writ Petition stands allowed. There shall be no order as to costs.

10.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

- 1.The Commissioner,
Scheduled Caste/Scheduled Tribes,
Welfare Department,
Chepauk,
Chennai – 5.
- 2.The District Collector,
Collectorate,
Trichy District.
- 3.The District Scheduled Caste/Scheduled Tribes,
Welfare Department Officer,
Trichy District,
Trichy.



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L.VICTORIA GOWRI, J.

Mrn

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