



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20829 of 2024

T.Estharmary

... Petitioner

Vs.

1.The District Educational Officer,
(Elementary Education),
Sivagangai, Sivangangai District.

2.The Block Educational Officer-2,
Ilayangudi, Sivagangai District.

3.The Correspondent,
R.C.Primary School,
Kundukulam – 630 709,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents 1 and 2 herein to approve the appointment, open service Register, sanction annual increments, surrender leave benefits, medical leave benefits, to include in the contributory pension scheme and other allowances towards the petitioner as Secondary Grade teacher in the 3rd respondent school namely, R.C.Primary School, Kundukulam from the date of her appointment i.e 06.06.2012.



For Petitioner : M/s.A.Amala

For Respondents : Mr.J.Ashok
Additional Government Pleader for R1 & R2
* * * * *

ORDER

The instant writ petition has been filed by a Secondary Grade Teacher, seeking a mandamus as against the respondents 1 and 2 to approve her appointment, open service register, sanction annual increments and other benefits in the third respondent school from the date of her appointment i.e., from 06.06.2012 onwards.

2.Since the petitioner's appointment was not approved on the ground that the petitioner is not possessing Teacher Eligibility Test qualification, the petitioner has approached this Court by filing W.P.(MD)No.6419 of 2013 to quash the said order and approve her appointment w.e.f. 06.06.2012 with all attendant benefits. The said writ petition was disposed of along with other writ appeals by the Hon'ble Division Bench of our High Court by an order dated 24.08.2016 in W.A.Nos.213 of 2016 etc. batch cases. The Hon'ble Division Bench was pleased to allow the writ petitions and directed the authorities to release salary of the teachers and also to pay the arrears of salary within a period of two months from the date of receipt of a copy of this order.



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3. Accordingly, the salary was released to the writ petitioner in compliance of the order of this Court, from the date of her appointment. It is the grievance of the writ petitioner that though salary has been released, all other benefits as mentioned in the prayer have not been conferred upon her. It is the grievances of the petitioner that without approving her appointment, salary alone is disbursed.

4. A perusal of the order Hon'ble Division Bench of our High Court, dated 24.08.2016 reveals that the authorities have been directed to approve the appointment of the writ petitioner and to release the salary. Therefore, it is clear that the respondents authorities have violated the order of the Hon'ble Division Bench, dated 24.08.2016 in W.P.(MD)No.6419 of 2013.

5. It is the contention of the respondent authorities that the direction of the Hon'ble Division Bench, dated 24.08.2016 in W.A.Nos.213 of 2016 etc. batch cases, was only for releasing the salary. Other Hon'ble Division Bench in W.A. (MD)No.670 of 2024, by an order dated 12.04.2024 has deprecated this kind of interpretation and had proceeded to hold that when the various Hon'ble Division Benches of this Court have taken a consistent stand that TET exam is not



mandatory for being appointed or to continue in the minority institution, the question of granting restricted interpretation to the orders of the Court with regard to the payment of the salary alone is not legally sustainable.

6. In view of the above said facts, this writ petition stands allowed and the respondents herein are directed to confer all the consequential benefits upon the writ petitioner within a period of twelve weeks from the date of receipt of a copy of this order. However, it is made clear that this order is always subject to the result of the judgment of the Hon'ble Supreme Court in *Ashwini Thanappan v. Director of Education reported in 2014 (8) SCC 272*.

7. With the above said observations, this writ petition stands allowed to the extent as stated above. No costs.

10.09.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
RJR



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(Elementary Education),
Sivagangai, Sivangangai District.

2.The Block Educational Officer-2,
Ilayangudi, Sivagangai District.



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R.VIJAYAKUMAR, J.

RJR

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