



W.P.(MD)No.22586 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.22586 of 2022 &
W.M.P.(MD)No.16755 of 2022

A.K.Jasfar Angela

... Petitioner

vs.

1.The Chief Educational Officer,
Kanyakumari District.

2.The District Educational Officer,
Nagercoil, Kanyakumari District.

3.The Correspondent,
Ringletaube Higher Secondary School,
Mylaudy - 629 403,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order issued by the second respondent in Ne.Mu.No.178/A4/2022 dated 07.06.2022, quash the same and further direct the respondents 1 and 2 herein to approve forthwith the appointment of the petitioner as Post Graduate Assistant (Physics) in the third respondent School from 06.02.2019 onwards with salary and other attendant benefits.



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For Petitioner : Mr.E.V.N.Siva

For Respondents : Mr.T.Amjadkhan,
Government Advocate for R1 and R2

ORDER

Heard Mr.E.V.N.Siva, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents 1 and 2.

2. The petitioner who has been appointed as P.G. Assistant (Physics) on 06.02.2019 in the third respondent School has filed this writ petition seeking to quash the impugned order issued by the second respondent in Ne.Mu.No.178/A4/2022 dated 07.06.2022 and direct the respondents 1 and 2 to approve forthwith her appointment with salary and other attendant benefits.

3. The impugned order has been passed stating that the proposal for approval of appointment of the petitioner to the post of P.G. Assistant (Physics) can be taken into consideration only after deployment of the



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surplus Teachers under the same Corporate Management. In the impugned order, reference was made to the Division Bench Judgment 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 [Iruthaya Amali's case]*** and the appeal filed against the above Judgment before the Supreme Court in ***S.L.P(c)No.015702/2021***.

4. It is learnt that the above said Special Leave Petition has also been disposed on 16.02.2024 by making the following observations.

"4. The suggestion made by the two senior counsel to this Court is to relegate the parties to the pending proceedings in the Madras High Court. It is however submitted that the Division Bench should limit itself to the core direction given in sub-clause (i) of paragraph 95 of the impugned judgment dated 31.03.2021 in the Writ Appeal (MD) No. 76 of 2019 and need not be concerned with the other aspects in the earlier judgment (31.3.2021).

5. Accepting the above submission, this matter is ordered to be closed by relegating the parties to the Madras High Court. It is made clear that the Court should decide the pending matter on merit without



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being influenced by any observation made by this Court during the pendency of the present proceeding or under the impugned order."

5. But, the sub-clause (i) of the paragraph 95 has got nothing to do with the petitioner's appointment. In fact, the Judgment rendered in ***Iruthaya Amali's case*** only sets out the guidelines as to how the surplus posts in the Schools falling under the same Corporate Management should be considered. The impact of the Judgment in ***Iruthaya Amali's case*** could be applicable only for the appointments made subsequent to the date of the Judgment *i.e.*, 31.03.2021. The petitioner's appointment relates back to the year 2019, during which time, the position as to the Schools falling under the same Corporate Management is a stand alone institution by itself. Hence, the proposal for approval of appointment ought not have been rejected by *citing* the orders passed in ***Iruthaya Amali's case***. Since the petitioner was appointed on 06.02.2019, on which date, there is no mandate that the third respondent School should make new appointments only after the exercise of deployment of excess teachers in the whole of Corporate Management is completed, the



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impugned order is liable to be set aside.

6. In view of the above observations, the writ petition is **disposed of** and the impugned order of the second respondent in Ne.Mu.No.178/A4/2022 dated 07.06.2022 is set aside and the respondents 1 and 2 are directed to pass orders to grant approval to the appointment of the petitioner as P.G. Assistant (Physics) in the third respondent School with effect from 06.02.2019 within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

18.06.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To

1.The Chief Educational Officer,
Kanyakumari District.

2.The District Educational Officer,
Nagercoil, Kanyakumari District.



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R.N.MANJULA, J.

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