



W.P.(MD).No.20643 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20643 of 2023

and

W.M.P.(MD).Nos.17075, 17076, 17245 & 21598 of 2023

T.Malarvizhi

... Petitioner

VS

1.The Chief Educational officer,
Sivagangai,
Sivagangai District.

2. The District Educational Officer (Secondary Grade),
Sivagangai,
Sivagangai District.

3. S.R.M.Higher Secondary School,
Nattarasankottai (under Direct Payment)
Rep. by Headmaster,
Sivagangai,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent pertaining to its proceeding in Oo.Mu.No.5006/A1/2023 dated 26.07.2023 and to quash the same and consequently direct the respondents to grant re-employment to the petitioner till the end of the academic year ending April 2024.



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For Petitioner : Mr.SC.Herold Singh
For Respondents No.1 & 2 : Mr.J.Ashok
Additional Government Pleader

ORDER

The instant writ petition has been filed by a B.T. Assistant (Science) teacher working in the 3rd respondent's school, challenging the order passed by the 2nd respondent herein dated 26.07.2023, wherein, the request of the petitioner for extension of her service after attaining her age of superannuation has been rejected.

2. The petitioner herein was working in the 3rd respondent's school as the B.T. Assistant (Science) teacher, and she had attained her age of superannuation on 31.07.2023. The petitioner had sent a proposal to the 2nd respondent and the same has been forwarded by the Head Master of the 3rd respondent school on 12.07.2023. The said proposal had been rejected under the impugned order, dated 26.07.2023, on the sole ground that since the school is under direct payment system, the question of granting extension of service would not arise.



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3. According to the learned counsel appearing for the writ petitioner, there was some dispute between the management of the school which resulted in the direct payment system. Since the school is under direct payment, there is no possibility for fresh appointment to the post which becomes vacant due to the retirement of the petitioner. The petitioner has completed most of the portion up to the quarterly examination, and is also training the students for their practical test, and if any change is made, the same would affect the continuation of education of the children. The 3rd respondent school, which is under direct payment system cannot be an impediment for the authorities to consider the request of the petitioner to extent her service.

4. Per contra, the learned counsel appearing for respondent Nos.1 and 2 herein relied upon the counter and contended that any proposal can be forwarded only through the management of the school. The 3rd respondent school is under direct payment system. Hence, the request of the petitioner cannot be considered. He further contended that there are surplus B.T. Assistant (Science) teachers, in the educational district. When surplus teachers are available, the question of granting extension of service till the end of academic year does not arise. Hence, the request made by the petitioner cannot be considered.



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5. The learned counsel appearing for the petitioner has further contended that even though, the petitioner had attained her age of superannuation on 31.07.2023, she was permitted to continue in service till 31.03.2024. However, the salary was not paid for the said period to the petitioner.

6. I have carefully considered the submission made on either side, and perused the materials available on record.

7. It is a fact that there is a dispute within the management. As per G.O.Ms.No.261, School Education Department dated 20.12.2018, a teacher, who retires in the middle of the academic year, can get extension of service, by proving the character and conduct of the concerned teacher as good and he/she is physically fit. Apart from that, there should not be any surplus teacher in the said school. Now, in the present case, there is no dispute about the conduct and character, and physical fitness of the petitioner. As far as the issue of surplus teacher is concerned, admittedly, the petitioner school is a stand alone institution and there are no surplus teachers as on today. The



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authorities, who are rejecting the request of the petitioner for extension of her service, cannot cite the availability of the surplus teachers in other aided schools or in the Government schools. It is brought to the notice of this Court that in the place of the petitioner, no other teacher has been appointed by way of deployment. The petitioner was continued her service till 31.03.2024. In such circumstances, the issue of service of the petitioner cannot be raised by the respondents authorities.

8. The 3rd respondent school, is being under direct payment system, cannot be an impediment to consider the proposal forwarded by the Headmaster of the 3rd respondent school for extension of service of the petitioner. The 3rd respondent school had extracted work from the petitioner till 31.03.2024. It may not be fair on the part of the state, to contend that the school is under direct payment system. Even though, the impugned order was passed on 26.07.2023, the authorities have permitted the writ petitioner to continue her services till 31.03.2024.



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9. In view of the above said observation, the order impugned in this writ petition is hereby set aside, and the respondents are directed to disburse the salary of the petitioner till 31.03.2024, and the eligible terminal benefits shall also be released within a period of twelve(12) weeks from the date of receipt of a copy of this order.

10. With the above said observation, this writ petition stands allowed.
No costs. Consequently, connected miscellaneous petitions are closed.

23.10.2024

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