



W.P.(MD).No.21771 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.21771 of 2024

and

W.M.P(MD)Nos.18390 & 18392 of 2024

L.Ramasamy

... Petitioner

Vs

1.The Director of School Education,
O/o. Director of School Education,
DPI Campus, Nungambakkam,
Chennai.

2.The Chief Educational Officer,
O/o.the Chief Educational Office,
Ramanathapuram,
Ramanathapuram District.

3.The District Educational Officer(Secondary),
O/o.the District Educational Office,
Mandapam, Ramanathapuram,
Ramanathapuram District.

4.The Correspondent,
Syed Ammal Higher Secondary School,
Ramathapuram,
Ramanathapuram District.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent vide his proceedings Pa.Mu.No. 5480/A3/2024 dated 21.08.2024 and quash the same as illegal and consequential to direct the respondents to approve the appointment of the petitioner as B.T.Assistant (Science) w.e.f 09.03.2019 within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Ajmal Khan
Senior Counsel for
M/s.Ajmal Associates

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader for RR1 to 3

ORDER

This writ petition has been filed by a BT Assistant (Science) Teacher appointed to the fourth respondent school, challenging the order passed by the second respondent dated 21.08.2024, wherein his appointment has not been approved.

2.A perusal of the impugned order of the second respondent reveals that the approval has been rejected on the following grounds:

a)The Management has not obtained any prior permission for upgrading the Secondary Grade Teacher post as BT Assistant post; and

b)There are surplus BT Assistant Teachers in the Academic year 2023-2024.



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3. According to the learned Senior Counsel appearing for the writ petitioner, there are no surplus Secondary Grade Teachers for the academic year 2018-2019 in the fourth respondent school. In such circumstances, the upgradation of Secondary Grade Teacher post as BT Assistant post is automatic and therefore, the question of seeking prior permission for upgradation could not arise. He further contended when the appointment was made in the academic year 2018-2019, the authorities cannot rely upon the alleged surplus in the academic year 2023-2024.

4. Per contra, the learned Additional Government Pleader appearing for the respondents herein relying upon the counter had contended that whenever a permanent vacancy arises in the Secondary Grade Teacher post, the upgradation of the same as BT Assistant Teacher post is not automatic and they have to seek prior permission from the authorities concerned. He further contended that when there are surplus teachers in the academic year 2023-2024, the proposal of the Management for approving the appointment of the writ petitioner cannot be accepted.



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5.I have carefully considered the submissions made on either side and perused the materials available on record.

6.It could be seen from the records that the petitioner has been appointed on 09.07.2019 which falls within the academic year 2018-2019 which is relevant for the purposes of deciding the surplus. From the staff fixation order for the academic year 2018-2019, it could be seen that there are no surplus Secondary Grade Teacher in the said school. In such circumstances, the upgradation of the Secondary Grade Teacher post is automatic and therefore, the second respondent was not right in observing that prior permission for upgradation has not been obtained.

7.As far as the issue of surplus Secondary Grade Teachers in the year 2023-2024 is concerned, the petitioner having been appointed on 09.07.2019 based upon the staff fixation order for the year 2018-2019, the authorities cannot rely upon the alleged surplus in the year 2023-2024.

8.Since the reasons are not legally sustainable, the order impugned in the writ petition is hereby set aside and the second respondent herein is directed to



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approve the appointment of the writ petitioner w.e.f 09.07.2019, with all attendant benefits and pass orders within a period of twelve weeks from the date of receipt of a copy of this order.

9.With the above said directions, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are also closed.

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

To

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R.VIJAYAKUMAR, J.

RJR

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