



W.P.(MD)No.23407 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.23407 of 2022 &
W.M.P.(MD)Nos.17488 & 17489 of 2022

Ringle Taube Higher Secondary School,
Rep. by its Correspondent,
Mylaudy,
Kanyakumari District - 629 403

... Petitioner

VS.

1.The Secretary to Government,
School Education Department,
St.George Fort,
Chennai - 600 009.

2.The Commissioner of School Education,
DPI Campus, College Road,
Chennai - 600 006.

3.The Chief Educational Officer,
Kanyakumari District,
At Nagercoil - 629 001.

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

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the fourth respondent pertaining to the proceedings in Ni.Mu.No.177/A4/2022 dated 30.06.2022, quash the same and consequently, direct the third respondent to approve the appointment of A.Benila Hann as P.G. Assistant (Maths) at the petitioner School with effect from the date of her appointment that is on 13.06.2017 and to grant all service and monitory benefits within a time frame that may be stipulated by this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.S.C.Herold Singh, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.



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2. The petitioner School has filed this writ petition seeking to quash the impugned order issued by the fourth respondent in Ni.Mu.No. 177/A4/2022 dated 30.06.2022 and consequently to direct the third respondent to approve the appointment of A.Benila Hann as P.G. Assistant (Maths) at their School with effect from the date of her appointment that is on 13.06.2017 and to grant all service and monitory benefits within a stipulated time.

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



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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 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 appointment of A.Benila Hann as P.G. Assistant (Maths). In fact, the Judgment rendered in ***Iruthaya Amali's case*** only set 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



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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 appointment of A.Benila Hann relates back to the year 2017, 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 A.Benila Hann was appointed on 13.06.2017, on which date, there is no mandate that the petitioner School should make new appointments only after the exercise of deployment of excess teachers in the whole of Corporate Management is completed, the 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 fourth respondent in Ni.Mu.No.177/A4/2022 dated 30.06.2022, is set aside and the third respondent is directed to pass orders to grant approval to the appointment of A.Benila Hann as P.G. Assistant (Maths) in the petitioner School with effect from 13.06.2017 within a period of four weeks from the date of



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receipt of a copy of this order. No costs. Consequently, connected

Miscellaneous Petitions are closed.

18.06.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To

- 1.The Secretary to Government,
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R.N.MANJULA, J.

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