



W.P.(MD).No.26588 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.26588 of 2024

J.Esther Marybha

... Petitioner

VS

1.The Director of Elementary School Education,
D.P.I.Compound,
College Road,
Chennai.

2.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

3. The District Educational Officer,
Cheranmahadevi,
Tirunelveli District,
Tirunelveli.

4. The Block Educational Office-II,
Cheranmahadevi Range,
Tirunelveli District,
Tirunelveli.

5. The correspondent,
STC Branch Primary School,
Kallidaikurichi,
Tirunelveli District,
Tirunelveli.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus to call for the records in respect of order passed by the fourth respondent in O.Mu.No.2529/A1/2024 dated 15.07.2024 and quash the same and consequently direct the 3rd and 4th respondents to approve the appointment of the petitioner and disburse all the service and monetary benefits from the date of the appointment (i.e., 01.08.2019).

For Petitioner : Mr.S.Chellapandian

For Respondent Nos.1 to 4 : Mr.T.Amjadkhan
Government Advocate

ORDER

The instant writ petition has been filed by a Secondary Grade Teacher appointed in the fifth respondent school, seeking to quash the order dated 15.07.2024, passed by the 4th respondent herein, wherein the request of the management to approve the appointment of the petitioner has been rejected.

2. A perusal of the impugned order dated 15.07.2024 reveals that the proposal forwarded by the management has been rejected by the authorities on the following grounds :

a) The petitioner has not passed TET Examination



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b) Though the petitioner is said to have been appointed on 01.08.2019, the management has forwarded the proposal only in the month of July 2024 with a delay of four years.

3. According to the learned Counsel appearing for the writ petitioner, the fifth respondent school being a minority institution, a pass in TET examination is not mandatory. He further contended that the proposal was initially forwarded on 07.08.2019 itself. The learned Counsel appearing for the writ petitioner relies upon the Attendance Registrar from August 2019 onwards, which have been inspected and endorsed by the Educational Authorities. In fact, the Annual Inspection Report dated 08.01.2021, the authority has noted that the management has to get approval for the appointment of the writ petitioner. In such circumstances, there is no delay on the part of the management.

4. Per contra, the Additional Government Pleader appearing for the respondent Nos.1 to 4 had contended that apart from the grounds mentioned in the impugned order, there are surplus teachers in the Corporate Management and therefore the question of approving the appointment of the writ petitioner does not arise.



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

6. As far as the plea of non passing of TET examination is concerned, the Hon'ble Division Bench of this court in judgment reported in 2023 (3) LW Page.112 & Para 74(c) has categorically found that a pass in TET examination is not mandatory for the minority institution. There is no dispute with regard to the fact that the fifth respondent's institution is a minority institution. In such circumstances, such a plea cannot be raised by the respondent authorities.

7. As far as the delay on the part of the management in sending the proposal to the concerned authorities, it could be seen from the Additional Typed set of papers filed by the petitioner, the petitioner is working in the said school from August 2019 onwards and the Attendance Register for the relevant years have been inspected and endorsed by the concerned Block Educational Officer. In fact there is a reference in the annual report dated 08.01.2021, about the appointment of the writ petitioner. In such



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circumstances, the case of the authorities that they have received a proposal only on 03.07.2021, is not sustainable.

8. As far as the plea relating to surplus teachers are concerned, the plea of Corporate Surplus could be raised only for the appointments that were made after the orders in W.A.(MD).No.76 of 2019, dated 31.03.2021. The present appointment having been made on 01.08.2021, the issue of Corporate Surplus cannot be raised. A perusal of the staff fixation order for the academic year 2019-2020 for the fifth respondent school reveals that there is a vacancy to the post of Secondary Grade Teacher and there is a sanctioned vacancy in the post of Secondary Grade Teacher which can be filled by the management. In such circumstances, the plea of surplus also cannot be raised by the respondent authorities.

9. In view of the above said facts, the order impugned in this writ petition is set aside and the respondents are directed to approve the appointment of the writ petitioner with effect from 01.08.2019, within a period of twelve weeks from the date of receipt of a copy of this order.



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10. With the above said observations, this writ petition is allowed. No
costs.

06.12.2024

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