



W.P(MD).No.26794 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.26794 of 2024

P.Rani Elizabeth

.... Petitioner

-VS-

1.The District Educational Officer (Elementary),
Tuticorin District.

2.The Block Educational Officer,
Sathankulam,
Tuticorin District.

3.The Correspondent,
T.D.T.A. Primary School,
Nainoor,
Tuticorin District.

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the first respondent in his proceedings in Mu.Mu.No.787/A1/2024 dated 09.08.2024 insofar as the denial of approval from 31.07.2019 to 06.08.2023 and quash the same and direct the respondents to approve the appointment of petitioner as Secondary Grade Teacher from the date of appointment i.e., from 31.07.2019 with salary and all other consequential benefits.



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For Petitioner : Mr.V.Panner Selvam
For R1 and R2 : Mr.S.Satheesh Kumar
Additional Government Pleader
For R3 : No Appearance

ORDER

The instant writ petition has been filed by the Secondary Grade Teacher appointed to the third respondent School, challenging the order passed by the first respondent on 09.08.2024, wherein the approval was granted only from 07.08.2023 instead of 31.07.2019.

2.According to the learned counsel appearing for the writ petitioner, the petitioner was appointed as Secondary Grade Teacher in the third respondent School on 30.07.2019 and when the proposal was forwarded by the management to the first respondent, under the impugned order dated 09.08.2024, instead of granting approval from the date of appointment, namely 31.07.2019, the approval has been granted only from 07.08.2023 on the ground that there were surplus secondary Teachers prior to 07.08.2023.



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3. According to the learned counsel for the petitioner, the third respondent School is an Aided Minority Institution administered by a Corporate Management. Prior to the decision of the Hon'ble Division Bench of this Court in W.A.No.76 of 2019, dated 31.03.2021, staff fixation orders were issued based on the student strength of each School and surplus Teachers were identified only based on the student strength of each School. The concept of Corporate surplus was introduced only in the orders of the Hon'ble Division Bench in W.A.No.76 of 2019 dated 31.03.2021. When the appointment of the petitioner has been made prior to the orders of the Hon'ble Division Bench dated 31.03.2021, the authorities are expected to consider the fact that whether the appointment is within the staff fixation order for the third respondent School or not.

4. Per contra, the learned Additional Government Pleader appearing for the official respondents herein had contended that the third respondent School having been administered by a Corporate Management, if there are surplus Secondary Grade Teachers in the other School falling within the same management, without deploying those Teachers, any fresh appointment of a Secondary Grade Teacher cannot be approved.



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

6.As rightly pointed by the learned counsel for the petitioner, the concept of corporate surplus was introduced by the Hon'ble Division Bench for the first time in W.A.No.76 of 2019 dated 31.03.2021. Before that, the authorities as well as the concerned Schools were following G.O.Ms.No. 525, School Education (D1) Department, Dated 29.12.1997, wherein there is no whisper about the corporate surplus. In such circumstances, if any appointment is made prior to 31.03.2021, the authorities are expected to grant approval to the appointment of Teachers, provided the appointment is within the staff fixation order for the relevant School in the relevant academic year.

7.As far as the present case is concerned, one secondary Grade Teacher post has been sanctioned under the staff fixation order for the academic year 2018-19 for the third respondent School. It is not in dispute that the petitioner has been appointed to the said post. In such



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circumstances, there are no surplus Teachers as per the staff fixation year for the third respondent school.

8.In view of the above deliberations, the order impugned in the writ petition is set aside insofar as it denies approval from 31.07.2019 onwards is concerned and this writ petition is allowed. The first respondent is directed to revise the approval order granting approval to the appointment of the writ petitioner with effect from 31.07.2019 onwards. The said exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

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Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR,J.

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