



W.P.(MD).No.26325 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.26325 of 2023

and

W.M.P(MD)No.22661 of 2023

K.Jesintha Rani

... Petitioner

Vs.

1.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.

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

3.The District Educational Officer,
Kumbakonam Education District,
Kumbakonam,
Thanjavur District.

4.The Block Educational Officer,
Kumbakonam Block,
Kumbakonam,
Thanjavur District.

5.The Correspondent,
R.C.Morning Star High School,
Kumbakonam,
Thanjavur District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to approve the appointment of petitioner in the post of Sewing Instructor from the date of appointment on 22.07.2019 with all consequential and other attendant benefits including the arrears of salary, in consideration of representation submitted by the petitioner, dated 26.08.2023, within a time frame to be fixed by this Court.

For Petitioner : Mr.F.Deepak

For R1 to R4 : Mr.N.GA.Natraj
Government Advocate

ORDER

The present writ petitions have been filed seeking direction to the respondents to approve the appointment of petitioner in the post of Sewing Instructor from the date of appointment on 22.07.2019 with all consequential and other attendant benefits including the arrears of salary, in consideration of representation submitted by the petitioner, dated 26.08.2023

2. The 5th respondent school is a religious minority institution administered by the Corporate Management of Kumbakonam Diocese Society. A sanctioned vacancy to the single post of Sewing Teacher had arisen due to the retirement of one M.Shantha Maria on 31.05.2019. The 5th respondent



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school on receipt of eligible list of candidates from the Employment Exchange and also invited applications by open advertisement, conducted selection process to the said post. The petitioner had participated in the selection and got selected vide order of Appointment Committee, dated 20.07.2019 and joined service in the 5th respondent school on 22.07.2019. Pursuant to her appointment, the 5th respondent school had forwarded the proposal, dated Nil. 10.2019 to the 2nd respondent through 3rd respondent seeking approval of the appointment of the petitioner as Sewing Teacher. However, the 3rd respondent has issued proceedings, dated 23.12.2019 calling for further particulars. Subsequently, the 5th respondent school resubmitted the proposal on 25.02.2022 along with the required documents as called for by the 3rd respondent. On receipt of the same, the 3rd respondent without forwarding the proposal to the 2nd respondent, issued proceedings, dated 05.10.2010 returned the said proposal by quoting the order of this Court in W.P.No.31575 of 2019, dated 08.11.2019 that only on the completion of deployment of surplus teachers, the appointment of the petitioner by the 5th school could be considered. However, the 5th respondent school had resubmitted the proposal to the 2nd respondent enclosing all the details once again. The same is not considered. Hence, the petitioner had sent a representation on 26.08.2023 requiring the respondents to approve her



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appointment in the post of Sewing Teacher in the 5th respondent school from the date of her appointment i.e., 22.07.2019. The same also kept pending without consideration.

3. The learned counsel for the petitioner submitted that the lis in hand is already covered by the order of this Court in W.P(MD)No.30205 of 2023, dated 19.12.2023.

4. Per contra, the 3rd respondent has filed a counter affidavit and the learned Government Advocate submitted that unless and until the surplus teachers have been exhausted by the corporate management, the questing of approving the appointment of the petitioner will not arise and he pressed for dismissal of the writ petition.

5. Heard the learned counsels on either side and perused the materials available on record.

6. This Court in W.P(MD)No.30205 of 2023, dated 19.12.2023 has dealt with a case of appointment of a single teacher post and the relevant portion of which is extracted as follows:



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“9. If the issue of surplus Teachers arises, when the students strength comes down in a particular academic year, the other classes may be handled by the general Teachers, namely, Secondary Grade Teachers or B.T.Assisants, as the case may be, by adjusting the work among themselves. However, when a Vocational Teacher is declared as surplus, no other Teacher would be in a position to handle the said subject. Therefore, when a single post is sanctioned for a specialist subject, the same cannot be declared to be surplus in view of falling in students strength. That apart, the issue of surplus, which is pointed out by the authorities is that the students strength in other schools within the corporate management have fallen down. Even in those schools, it is only a single sanctioned post. Therefore, the presence of those Teachers in those schools cannot be cited as surplus in order to reject the approval of the present candidate.”

7. Fully fortified by the order passed by this Court discussed supra, I reiterate that the issue of surplus teachers would not be applicable to the post of Vocational Teacher, especially Sewing Teacher post which is a single teacher post. The fall in student strength in a particular school will not have any effect on the appointment of the sanctioned single teacher post by the respective managements. Irrespective of the strength of the students, the single teacher post is always necessary for training the students in a particular vocation.



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Hence, if a single sanctioned post of Vocational Teacher falls vacant, the management is entitled to make appropriate appointment and the respondents shall duly grant approval. Considering the fact that the petitioner has been appointed to the post of Sewing Teacher, the respondents are directed to consider the representation of the petitioner, dated 26.08.2023 and pass appropriate orders in the light of the order passed by this Court in W.P(MD)No. 30205 of 2023, dated 19.12.2023 within a period of six (6) weeks from the date of receipt of a copy of this order.

8. With the above said observations, this Writ Petition stand disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

25.03.2024

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

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To

1. The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.



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L.VICTORIA GOWRI, J.

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