



W.P.(MD)No.27358 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.27358 of 2023

and

W.M.P(MD)Nos.23510 & 23511 of 2023

P.Lilly

... Petitioner

Vs.

1.The Chief Educational Officer,
CEO Office Campus,
SLB Govt (B) Hr. Sec. School South Side,
Nagercoil,
Kanyakumari District.

2.The District Educational Officer,
SLB South Street,
PWD Road, Nagercoil,
Kanyakumari - 629 001.



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3.The Corporate Manager,
SCI Diocesan Office,
71-A Dennis Street,
Nagercoil - 629 001.

4.The Correspondent,
LMS HSS, Jamestown,
Agastheeswaram, Nagercoil,
Kanyakumari District - 629 504.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to quash the impugned rejection order passed by the 2nd respondent Na.Ka.No.5913/A2/2022 dated 21.07.2023 and consequently for a direction directing the 2nd respondent to approve the petitioner's appointment dated 01.06.2020.

For Petitioner : Mr.G.Anto Prince

For Respondents : Mr.T.Amjad Khan – for R1 & R2
Government Advocate
Mr.S.C.Herold Singh– for R3



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ORDER

The petitioner has filed this writ petition seeking for a Writ of Certiorarified Mandamus to quash the impugned rejection order passed by the 2nd respondent Na.Ka.No.5913/A2/2022 dated 21.07.2023 and consequently for a direction directing the 2nd respondent to approve the petitioner's appointment dated 01.06.2020.

2. Heard Mr.G.Anto Prince, learned counsel for the petitioner, Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents 1 and 2 and Mr.S.C.Herold Singh, learned Standing Counsel appearing for the third respondent.

3. The petitioner, who has been appointed to the post of one B.T Assistant Science on 01.06.2020 has filed this writ petition challenging the order of the respondent, dated 21.03.2023, through which, the proposal sent for approving her appointment has been



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rejected.

4. In the impugned order, it is stated that at the time when the proposal was received by the second respondent that there was surplus in the corporate management, under which, the petitioner school fall under.

5. It is further submitted that the fifth respondent management has to furnish any list to show whether the surplus posts has been deployed already and that the appointment has been made after completed the deployment. But the guidelines as to the surplus is applicable to the corporate management and for the schools coming under the same corporate management borne only through the order of the Division Bench of this Court held in ***W.A. (MD)No.76 of 2019 etc., batch, (The Secretary to Government, Government of Tamil Nadu, School Education Department, Fort St. George, Chennai Vs. Iruthaya Amali and another)*** on



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31.03.2021. So far the petitioner is concerned, she has been appointed on 01.06.2020 much before the date of the judgment. But only objection that can be raised by the respondent is that the approval itself has been received by the second respondent office only in the year 2022.

6. The learned counsel for the petitioner submitted that the proposal to approve the appointment of the petitioner has been sent as early as on 19.11.2020, for which, the second respondent had also sent a communication calling for certain documents. So the date of re-submission cannot be considered as the date of first submission of the proposal by the second respondent and that cannot be shown as the reason to reject the proposal.

7. Without properly appreciating the date during which the petitioner's appointment proposal was made and sent by the fourth respondent, the impugned order has been passed in a short-



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sighted manner by unnecessarily raising the ground of surplus. The principle of surplus in the corporate management is not applicable during the time when the petitioner's appointment was made.

8. In view of the reasons stated above, the writ petition is allowed and the impugned order, dated 21.07.2023 of the second respondent is set aside. The fourth respondent is directed to resubmit the proposal along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the second respondent is directed to pass an order approving the appointment of the petitioner within a period of four weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

27.06.2024

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

RM

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R.N.MANJULA, J.

RM

Order made in
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