



W.P.(MD)No.29049 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.29049 of 2023

and

W.M.P.(MD).Nos.25091 & 25092 of 2023

D.Ruby

... Petitioner

Vs.

1.The District Educational Officer,
O/o. The District Educational Office,
Tenkasi, Tenkasi District.

2.The Block Educational Officer,
O.o, the Block Educational office,
Alangulam, Tenkasi District.

3.The Manager,
T.D.T.A. Primary & Middle School,
Diocesan Office Palayamkottai,
Tirunelveli District.

4.The Correspondent,
T.D.T.A. Primary School,
Reddiarpatti Pastorate,
Alangulam, Tenkasi District.

5.The Head Mistress,
T.D.TA. Primary School,
Arunchalapuram,
Alangulam Union,
Tenkasi District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the third respondent in his proceedings NIL dated 01.07.2019 and the order passed by the third respondent in his proceedings NIL dated 02.07.2019 and the consequential order dated 17.11.2023 passed by the fourth respondent and quash the same as illegal and consequently to direct the respondents 3 and 4 to forward the proposal to the first respondent for the approval of the appointment of the petitioner in the post of Secondary Grade Teacher with effect from 08.12.2017 and grant salary from the date of approval of her appointment within the period that may be stipulated by this Court.

For Petitioner : Mr.P.Mohammed Suhail
for M/s.Ajmal Associates

For R-1 & R-2 : Mr.T.Amjad Khan,
Government Advocate

For R-3 to R-5 : Mr.C.Jeganathan

ORDER

Heard Mr.P.Mohammed Suhail, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for Respondent Nos.1 and 2 and Mr.C.Jeganathan, learned counsel appearing for the respondent Nos.3 to 5.



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2. This Writ Petition has been filed challenging the orders passed by the third respondent in his proceedings NIL dated 01.07.2019, 02.07.2019 and the consequential order dated 17.11.2023 passed by the fourth respondent and consequently to direct the respondents 3 and 4 to forward the proposal to the first respondent for the approval of the appointment of the petitioner in the post of Secondary Grade Teacher with effect from 08.12.2017 and grant salary from the date of approval of her appointment within the period that may be stipulated by this Court.

3. The petitioner is said to have appointed as a 'Secondary Grade Teacher' on 08.12.2017 in the fifth respondent School. The grievance of the petitioner is that the proposal has been sent by the School authorities by considering the appointment of the petitioner with effect from 01.07.2019.

4. Mr.C.Jeganathan, learned counsel appearing for respondent Nos.3 to 5 submitted that the petitioner has been originally appointed as a 'Secondary Grade Teacher' on 08.12.2017. However, the vacancy was considered as surplus and hence, the appointment was cancelled. Thereafter, in the year 2019, when the vacancy arose in the sanctioned post, the petitioner has been appointed on 02.07.2019. Though the petitioner accepted the appointment



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order so granted to her on 02.07.2019, she claims that her appointment was way back in the year 2017. The petitioner had acquired TET eligibility in the year 2022 by passing the Test conducted during October 2022. Since the post for which the petitioner was appointed in the year 2017 was surplus, the respondent School has got no other option except to bear the salary or cancel the appointment. If the petitioner wishes to quash the appointment order dated 02.07.2019, she cannot have any legs to stand before the Court for persuading respondent Nos.3 to 5 to send a proposal of her appointment for approval by respondent Nos.1 and 2. In fact, in the order dated 08.12.2017, the petitioner has fixed her signature by knowing pretty well that her appointment would be subjected to the approval of the Government and that she will be paid with salary only when her appointment is approved and grant is released. Was she had turned back and claims that the proposal has to be sent only from the date when the post was declared as surplus. The petitioner School is not a stand alone institution, but, it is an unit of a corporate management.

5. Mr.P.Mohammed Suhail, learned counsel appearing for the petitioner submitted that the petitioner had served between the period from 2017 to 2019 without any wages and hence, the said period cannot be ignored.



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6. It is reiterated that the petitioner has accepted the appointment order dated 08.12.2017 and the subsequent appointment order dated 02.07.2019 by knowing pretty well that the appointment would be subjected to the approval of the Government and she would get the salary only when the grant is released. As on 01.07.2019, the earlier appointment of the petitioner dated 08.12.2017 was cancelled stating that the said post was considered as surplus. After cancelling the earlier appointment, the petitioner was given with a new appointment order dated 02.07.2019 by considering her date of appointment with effect from 02.07.2019.

7. In fact, the petitioner herself has fixed her signature by being aware of the appointment order dated 02.07.2019. When the facts so, the petitioner cannot compel the school authorities to send the proposal seeking approval with effect from the date when her appointment was cancelled. If the petitioner is continued to work in the fifth respondent School with an expectation that her employment will be approved at some point of time, it is the risk taken by the petitioner. If the petitioner or the management challenged the declaration of surplus of one post during the academic year 2017 and retained it as a sanctioned post, the petitioner could have some reasons to raise the prayer now sought. In the absence of the same and when her appointment could be taken



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effect only from 2019, I do not find any reason to set aside the impugned orders to direct the authorities to send the proposal for approval as requested by the petitioner. However, it is open to the respondent Nos.3 to 5 to send the proposal as agreeable to and to expedite the process for getting approval of the petitioner's appointment as on 02.07.2019.

8. With the above observations, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

03.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG
To

- 1.The District Educational Officer,
O/o. The District Educational Office,
Tenkasi, Tenkasi District.
- 2.The Block Educational Officer,
O.o, the Block Educational office,
Alangulam,
Tenkasi District.



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R.N.MANJULA, J.

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