



W.P.(MD)No.29643 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.29643 of 2023 &
W.M.P.(MD)No.25569 of 2023

J.Maria Arockia Godwin

... Petitioner

vs.

1.The Chief Educational Officer,
O/o.the Chief Educational Officer,
Tirunelveli District.

2.The District Educational Officer (Secondary Education),
O/o.the District Educational Officer,
Tirunelveli District.

3.The Holy Redeemer's Hr.Sec.School,
Rep. by the Correspondent,
Thisayanvilai,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Moo.Mu.No. 7164/Aa3/2023 dated 18.10.2023 on the file of the Respondent No. 1 and quash the same as illegal and consequently direct the respondent Nos.1 and 2 to approve the appointment of the petitioner to the post of B.T. Assistant (Maths) with



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effect from 14.08.2019 instead of 30.08.2022 and disburse grant in aid towards his salary and allowances within the time stipulated by this Court.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.M.Siddharthan,
Additional Government Pleader
for R1 and R2

Mr.S.Savarimuthu
for M/s.Father Xavier Associates
for R3

ORDER

Heard Mr.I.Pinaygash, learned counsel appearing for the petitioner, Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.S.Savarimuthu, learned counsel appearing for the third respondent.

2. The petitioner has filed this petition seeking to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Moo.Mu.No.7164/Aa3/2023 dated 18.10.2023 on the file of the first respondent, quash the same and consequently direct the respondents 1 and 2 to approve his appointment to the post of B.T.



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Assistant (Maths) with effect from 14.08.2019 instead of 30.08.2022 and disburse grant in aid towards his salary and allowances within a stipulated time.

3. The petitioner was appointed as B.T. Assistant (Maths) in the third respondent School on 14.08.2019. Even though his appointment has been approved, the date of giving approval was from 03.08.2022, on which date, the post of Secondary Grade Teacher was upgraded to B.T. Assistant (Maths). Hence, the writ petition.

4. Mr.I.Pinaygash, learned counsel appearing for the petitioner submitted that the issue is no more a *res integra* and similar such petitioners have already filed writ petitions on the same ground and those petitions have been allowed.

5. Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that the approval could be given only after the post was upgraded and hence, the impugned order



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is correct.

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6. In this regard, it is pertinent to refer the earlier order of this Court dated 12.04.2024 in W.P.(MD)No.9018 of 2024, wherein, it is held as under.

"6. On perusal of the said order, it is seen that the point in issue as to whether the approval has to be taken effect ie., from the date of appointment or from the date of permission granted for conversion has been dealt. The relevant portion is extracted as under:

"11. In view of the above consistent decisions of this Court on the issue, we are of the view that the issue is no more res integra. As rightly contended by the learned counsel for the 1st respondent/teachers, approval has to be granted only from the date of appointment and not from a later date, namely from the date on which permission for post conversion was granted."

7. By relying on the above judgment, the learned counsel for the petitioner submitted that the petitioner is also similarly placed and hence the approval ought to have been granted from the date when he got transfer, ie., 25.10.2021 and not



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from the date when the permission was granted for conversion on 16.08.2023. No doubt in view of the judgment of the Division Bench of this Court, the issue is no more a res integra and the approval has to be granted only from the date of appointment and not from the date on which permission for post conversion was granted. However, in the instant case, the petitioner has been transferred from his earlier school where also he was holding the post of BT Assistant. It is claimed by the learned counsel for the petitioner that transfer is also appointment as regards the transferee school."

7. The petitioner has been appointed to the erstwhile vacancy in the post of Secondary Grade Teacher on 14.08.2019, which got upgraded subsequently as B.T. Assistant (Maths). However, the approval has been granted to the petitioner only with effect from the date of upgradation of the post and not from the date of his appointment. Since the post was very much available even when the petitioner was appointed, it will be fair on the part of the respondents 1 and 2 to grant approval to the petitioner from the date of appointment and not from the date when upgradation was effected. Repeated Judgments of this Court have made



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clear the above position and even in the Judgment referred above, the relief sought for by the petitioner therein was granted. In view of the same, this petitioner is also granted with the same relief on the same line of appreciation.

8. In the result, the writ petition is **disposed of** and the impugned order of the first respondent in Moo.Mu.No.7164/Aa3/2023 dated 18.10.2023 is set aside and the respondents 1 and 2 are directed to pass orders granting approval to the petitioner to the post of B.T. Assistant (Maths) with effect from 14.08.2019 within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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- To
- 1.The Chief Educational Officer,
O/o.the Chief Educational Officer,
Tirunelveli District.
 - 2.The District Educational Officer (Secondary Education),
O/o.the District Educational Officer,
Tirunelveli District.



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R.N.MANJULA, J.

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