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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.19752 of 2024
and
W.M.P.(MD)No.16741 of 2024

T.Gnanaselvi Jasmine ... Petitioner

Vs.

1.The District of Elementary Education,
College Road,
Chennai – 600 006.

2.The District Educational Officer (Elementary),
Kovilpatti, Tuticorin District.

3.The Block Educational Officer,
Ottapidaram Union, Thoothukudi District.

4.The Correspondent,
TNDTA Middle School,
Veppankulam,
Ottapidaram Union,
Thoothukudi District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the second respondent herein vide in Na.Ka.No.209/A4/2024 dated 13.06.2024 and quash the same and further direct the second respondent herein to approve the petitioner's appointment as BT Assistant (Maths) in the

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fourth respondent school w.e.f. the date of original appointment viz. 22.11.2017 instead of 09.05.2024 with salary and attendant benefits.

For Petitioner : Mr.A.Ajith Geethan

For R1 to R3 : Mr.M.Siddharthan
Additional Government Pleader

ORDER

The petitioner, who is working as a B.T. Assistant (Mathematics) in the fourth respondent school since 22.11.2017, challenges the second respondent's order dated 13.06.2024, approving her appointment only from 09.05.2024, i.e., from the date of post upgradation instead of her original date of appointment.

2. The learned counsel for the petitioner submits that as per G.O.Ms.No.79, Secondary Education (U1) Department, dated 14.06.2002 and G.O.Ms.No.99, School Education Department, dated 27.06.2006, the fourth respondent school had sought both upgradation of the post from Secondary Grade Teacher to B.T. Assistant and approval of her appointment on 27.02.2018. Though the proposals were repeatedly returned for procedural reasons, the fault did not lie with the petitioner.

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3. The learned counsel for the petitioner further contends that prior to the judgment of this Court in W.A.No.76 of 2019, dated 31.03.2021, the concept of "corporate surplus" was not in practice and staff fixation was determined based on the student strength of individual school. Since the petitioner's appointment was made before that judgment, the authorities ought to have considered only whether her appointment was within the staff strength sanctioned for the fourth respondent school. As the sanctioned post existed in the academic year 2017–2018 and she was appointed to that post, the denial of approval from 22.11.2017 is arbitrary.

4. Per contra, the learned Additional Government Pleader submitted that the fourth respondent school is part of a Corporate Management and at the time of petitioner's appointment, there were surplus Secondary Grade Teachers in other schools under the same Management. Without first deploying those surplus teachers, the school could not make fresh appointments. It was further argued that the petitioner joined duty before the post was officially upgraded to a B.T. Assistant post and the fourth respondent Management continued to retain

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her even after rejection of the approval proposal. Therefore, it was contended that the Government is not liable to pay salary for the period from 22.11.2017 to 08.05.2024 and that the school should bear that expense. Hence, the writ petition is liable to be dismissed.

5. As rightly pointed out by the learned counsel for the petitioner that the concept of corporate surplus was introduced only through the judgment of the Division Bench of this Court in W.A.No.76 of 2019, dated 31.03.2021. Prior to that, authorities followed G.O.Ms.No.525, dated 29.12.1997, which did not refer to corporate surplus. Therefore, for appointments made before 31.03.2021, the authorities are expected to examine whether the appointment was made within the staff fixation for the particular school in the relevant academic year. In the present case, one Secondary Grade Teacher post was sanctioned for the academic year 2017–2018 and the petitioner was appointed to that post. There were no surplus teachers in the fourth respondent school itself. Hence, the denial of approval from the date of her appointment is not justified.

6. Accordingly, this Writ Petition is allowed, by setting aside the impugned order to the extent of the denial of approval from 22.11.2017.

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The second respondent is directed to revise the approval order by granting approval to the petitioner with effect from 22.11.2017, within a period of four weeks from the date of receipt of a copy of this order. There shall be no orders as to costs. Consequently, connected Miscellaneous Petition is closed.

14.07.2025

NCC : Yes / No
Index : Yes / No
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