

(2007) 12 MAD CK 0183

In the Madras High Court

Case No : Writ Petition (MD) No. 9648 of 2005

T. Kingsly Nirmala

APPELLANT

Vs

The District Elementary Educational Officer, The Additional
Assistant Elementary Educational Officer and The
Correspondent, St. Aloysius Middle School

RESPONDENT

Date of Decision : 14-12-2007

Acts Referred:

Citation : (2007) 12 MAD CK 0183

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : V. Panneer Selvam, for the Appellant; So. Paramasivam, Government Advocate (CS), for the Respondent

Judgement

G. Rajasuria, J.—This Writ Petition has been focussed to call for the records pertaining to the order passed by the first respondent in his

proceedings Na.Ka. No. 6944/Aa2/2004 dated 12-07-2004 and quash the same, in so far as it denies the salary from 01-02-2002 to 16-06-

2004, and direct the respondents to date back the approval 01-02-2002 instead of 18-06-2004 and pay salary and other benefits to the

petitioner.

2. The facts in nutshell which are absolutely necessary and germane for the disposal of this Writ Petition would run thus:

The petitioner was appointed as Secondary Grade Teacher with effect from 01-02-2002 and she joined duty accordingly in the third respondent

school. The appointment was subject to the approval by the authorities concerned in the Government as the third respondent's school is an aided

one. As revealed by the proceedings dated 30-12-1994 of District Elementary

Educational Officer, Tirunelveli, the service of the petitioner was regularised with effect from 18-06-2004 misinterrupting G.O.Ms. 525, School Education, Dated 29-12-1997. Accordingly, the petitioner prays for regularisation with effect from 01-02-2002 itself with consequential benefits.

3. Per contra, the District Elementary Educational Officer filed the counter as under:

The said appointment was in violation of G.O.Ms. No. 525, School Education, dated 29-12-1997 as there were 23 Secondary Grade Teachers, who were rendered surplus in various schools in Nanguneri Range alone under the same Management, awaiting redeployment as on that date.

After redeployment of such surplus personnel the case of the petitioner was considered and regularised with effect from 18-06-2004 over which

the writ petitioner could have no grievance. As such the writ petitioner is not entitled to any salary from Government funds for the period from 01-

02-2002 to 17-06-2004. Accordingly, the first respondent prayed for the dismissal of this writ petition.

4. The Point for Consideration is as to whether the petitioner could claim regularisation with effect from 01-02-2002, based on the Full Bench

decision of this Court in Director of Elementary Education, Chennai and two Ors. v. Smt. S. Vigila and Anr. reported in 2006 (5) CTC 385

5. Heard both sides.

6. The learned Counsel for the petitioner would submit that as per the Full Bench decision of this Court, if the G.O.Ms. No. 525 School

Education, Dated 29-12-1997, is interpreted, there would be no difficulty at all for the authorities concerned to regularise the petitioner with effect

from 01-02-2002 itself; because of the misinterpretation of the said G.O. they wrongly held as though those 23 persons were treated as surplus

even as on the date of appointment of the petitioner on 01-02-2002.

7. The learned Government Pleader submits that the Government would follow the Full Bench decision of this Court cited supra. The counter was

filed by the District Educational Officer on 27-06-2006 so to say long before the pronouncement of the Full Bench decision of this Court cited

supra.

8. The learned Counsel for the petitioner also would refer to one other decision rendered by the single Judge of this Court in W.P.(MD)3421 of

2004 and W.P. No. 8905 of 2007 and would pray for similar order to be passed.

9. I am of the considered opinion that necessary directions could be given to the respondents to consider the case of the petitioner in the light of the

Full Bench decision of this Court. Accordingly the respondents are directed to reconsider the case of the writ petitioner within a period of four

weeks from the date of receipt of a copy of this order, for regularising her with effect from 01-02-2002 by interpreting G.O.Ms. No. 525 dated

29-12-1997 in accordance with the Full Bench decision of this Court referred to supra, if she is otherwise found fit and eligible for regularisation.

10. In the result, the writ petition is disposed of. No costs.