

(2010) 04 MAD CK 0317

In the Madras High Court

Case No : Writ Petition No. 4488 of 2004 and W.P.M.P. No. 5291 of 2004

V. Visalatchi

APPELLANT

Vs

The Director of School Education and Others

RESPONDENT

Date of Decision : 30-04-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 21

Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 — Section 27

Citation : (2010) 04 MAD CK 0317

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : No appearance, for the Appellant; A. Suresh, Government Advocate (Education) for R1 to R4, for the Respondent

Judgement

T. Raja, J.—The petitioner, V. Visalatchi, was appointed as Secondary Grade Teacher in the Manoranjitham Middle School, Ramalinga Adigalar Street, Kokirakulam, Tirunelveli from 03.06.2002. In view of the approval granted to her appointment from the date of her appointment, she is continuously working as Secondary Grade Teacher till date.

2. The 3rd respondent, based on the strength of the 5th respondent school, found that one Secondary Grade Teacher post is surplus during the year 2003 by applying G.O.Ms. No. 525, Education Department, dated 29.12.1997. The 4th respondent/the Assistant Elementary Educational Officer, Palayamkottai, in his proceedings Na.Ka. No. 6850/A4, dated September 2003, also held that one Secondary Grade Teacher Post is found surplus. Since the petitioner was aggrieved by the above said proceedings passed by the 4th respondent, she was constrained to challenge the order of the 3rd respondent issued in Na.Ka. No. 6060/A4/2003, dated 06.01.2004 insofar as withholding the salary of the petitioner from September 2003.

3. The present writ petition is filed with a grievance that the respondents have withheld the salary of the petitioner from September 2003 as against the

provisions of the G.O.Ms. No. 525, Education Department, dated 29.12.1997, wherein it is clearly stated in paragraph 8 that staff strength shall be fixed by the District Educational Officer or District Elementary Educational Officer and the teachers rendered surplus as far as possible be re-deployed to the needy schools and the re-deployment of the staff in schools shall be done by the Director of School Education and Director of Elementary Education or Officers to be authorized by them. Further, the said G.O. states that in case where the said deployment is felt difficult, surplus staff shall be allowed to continue in the same school till their retirement and then the staff strength will be refixed as per the norms. Further, the subsequent fixation of staff strength shall be done by the District Elementary Educational Officer in respect of Elementary and Middle Schools. Regarding the High School and Higher Secondary School, the G.O. says that this shall be done by the Joint Directors in the Education Department at the rate of four Revenue Districts or Joint Director and permission from the Government to fill up the posts is not necessary. But, in the case of the petitioner, though the petitioner was appointed and subsequently, the appointment was also approved, the petitioner is entitled to get her salary every month as per Section 27 of the Tamil Nadu Recognised Private Schools Regulation Act. The non payment of salary to the petitioner due to the impugned order is violative of Articles 14, 16 and 21 of the Constitution of India. It is also submitted by the petitioner that in her representation on 24.11.2003 and again on 30.12.2003, she had prayed for deploying her to Punitha Thomaiyar Elementary School (Secondary Grade Teacher) Kurichi, Palaninagar Saragam Tirunelveli District if a vacant post is available and also prayed for payment of salary which is withheld from the month of October 2003. The petitioner is ready and willing to be deployed to either in the aforesaid school or in any of the aided schools or Government schools within the Tirunelveli District where vacancies are available.

4. In view of the statement made by the petitioner that she is ready to be deployed in any of the aided schools or Government schools within the Tirunelveli District where vacancies are available, this Court, on the basis of the G.O.Ms. No. 525, Education Department, dated 29.12.1997 which says that the staff strength shall be fixed by the District Educational Officer concerned for High and Higher Secondary Schools and by District Elementary Educational Officer in respect of Elementary Middle Schools, is inclined to consider the prayer for re-deployment as far as possible, to the needy schools.

5. Mr. A. Suresh, learned Government Advocate appearing for respondents 1 to 4 has relied upon the Judgment of a Full Bench of this Court reported in 2006 (5) CTC 385 (Director of Elementary Education, Chennai-6 and Ors. v. S. Vigila and Anr.) wherein it has been held that the ratio of students-teacher strength as indicated in G.O.Ms. No. 525, Education Department, dated 29.12.1997 should be primarily considered by taking each individual standard/section as a unit. Therefore, by keeping in mind the ratio laid down by this Court in the above said Judgment the case of the petitioner should be considered and this Court also

gives a direction to the respondents to pay her salary to the petitioner from October 2003 with all other benefits and also to deploy the petitioner to any one of the vacant posts as Secondary Grade Teacher.

In view of the above, the impugned order is set aside and the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.