



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2016

CORAM:

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**THE HONOURABLE DR.JUSTICE S.VIMALA**

W.P (MD) No.19858 of 2016

and

W.M.P (MD) Nos.14339 and 14340 of 2016

J.Suyambulingam

: Petitioner

Vs.

1.The District Elementary Educational Officer,  
Tirunelveli.

2.The Additional Elementary Educational Officer,  
Vasudevanallur,  
Tirunelveli.

: Respondents

PRAYER: Writ Petition is 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 passed by the 2nd respondent in his proceedings in Na.Ka.No. 793/A1/2016 dated 14.10.2016 and quash the same and consequently direct the respondents to approve the re-employment of the petitioner from 01.11.2016 till 31.5.2017 i.e., end of academic year in the post of Headmaster of Suyambulingam Primary School, T.N.Pudukudi with all monetary benefits.

For Petitioner

: Mr.C.Jegannathan  
for M/s.Veera Associates.

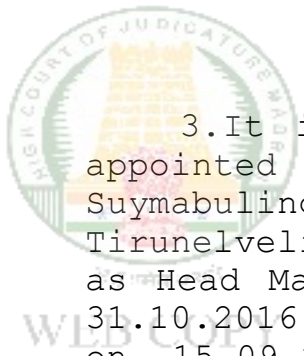
For Respondents

: Mr.T.S.Mohammed Mohideen,  
Additional Government Pleader.

#### O R D E R

This writ petition has been filed praying for issuance of a Writ of Certiorarified Mandamus to quash the order dated 14.10.2016, passed by the second respondent in Na.Ka.No.793/A1/2016 and consequently to direct the respondents to approve the re-employment of the petitioner till the end of Academic Year 2016-2017.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents, who took notice for the respondents.



3.It is the case of the petitioner that the petitioner was appointed as a Secondary Grade Teacher on 12.01.1980 at Suymabulingam Primary School, T.N.Pudukudi, Puliyangudi Post, Tirunelveli District, which is an aided school and he was promoted as Head Master on 01.08.1993. Now, he is due for retirement on 31.10.2016. In the said circumstances, he sent a representation on 15.09.2016, seeking for re-employment from 01.11.2016 to 31.05.2017 to the school authorities and a proposal was forwarded to the second respondent on 23.09.2016. The same was rejected by the second respondent, vide order, dated 14.10.2016 with the reasoning that surplus teachers are available. That order is under challenge in this writ petition.

4.The learned Additional Government Pleader appearing for the respondents would submit that there are surplus of teachers in the school coming under the management and therefore re-employment of the petitioner has not been approved.

4.1.Whether re-employment till the end of academic year can be declined on the ground of availability of excess teacher is the issue to be considered.

5.Similar issue was considered by this Court in WP(MD)No.2631 of 2014 dated 25.02.2014, wherein at paragraph - 2, it has been held as follows:

".. The object of re-employment is the interest of the students, who should have the same teacher to impart education till the end of the academic year. Merely because there are surplus teachers available, the same cannot be a ground to deny the approval of re-employment."

6.The dictum laid down by this Court in the above said decision, is squarely applicable to the facts of the present case.

7.In view of the above, the writ petition is allowed and the impugned order dated 14.10.2016, passed by the second respondent in Na.Ka.No.793/A1/2016 is set aside and the respondents are directed to approve the proposal sent by the second respondent for re-employment of the petitioner from 01.11.2016 to 31.05.2017 i.e., till the end of the Academic year and to pay all monetary benefits, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar



To

1.The District Elementary Educational Officer,  
Tirunelveli.

2.The Additional Elementary Educational Officer,  
Vasudevanallur,  
Tirunelveli.

+One cc to Mr.Veera Associates, Advocate, SR.No.61376

+One cc to The Special Government Pleader, SR.No.61409

smn

RL/5C/2P/CK/SARI/26.10.2016

ORDER MADE IN  
W.P (MD) No.19858 of 2016  
and  
W.M.P (MD) Nos.14339 and 14340 of 2016

18.10.2016