

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2017

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.Nos.14505 & 34678 of 2012 and
M.P.No.1 of 2012 &
W.M.P.No.16304 of 2017

1.Malliga ... Petitioner in W.P.No.14505 of 2012
2.R.Senthamizhi Selvi ... Petitioner in W.P.No.34678 of 2012

Vs

- 1.The State of Tamil Nadu
Rep by Secretary to Government,
Education Department (Higher Secondary)
Fort St.George,
Chennai 600 009.
- 2.The Director of School Education (Higher Secondary)
Chennai 600 006.
- 3.The Chief Educational Officer,
Panagal Building,
Saidapet, Chennai 600 015.
- 4.The District Educational Officer,
Chennai North,
Egmore, Chennai 600 008.
- 5.The Secretary School Committee
Lady M.CT.Muthaiah Chettiar Girls
Higher Secondary School,
13/14, Dr.Alagappa Road,
Purasawalkam, Chennai 600 084.
- 6.Smt.S.Sivakami
- 7.R.Senthamilselvi

R7 impleaded as per order dated 21.09.2012 in
M.P.No.4 of 2012 in W.P.No.14505 of 2012

... Respondents in W.P.No.14505 of 2012

1.The Joint Director of School
Education (Higher Secondary),
Directorate of School Education,
DPI Campus, College Road, Chennai 600 006.

2.The Chief Education Officer,
Pangal Building, Anna Salai,
Saidapet, Chennai 600 015.

3.The District Education Officer,
Chennai North Zone,
Egmore, Chennai 600 008.

4.The Lady M.Ct.Muthiah Chettiar Girls
Higher Secondary School Committee,
Rep. by its Secretary,
No.13/14, Dr.Alagappa Road,
Purasawalkam, Chennai 600 084.

5.Ms.V.Mallika

... Respondents in W.P.No.34678 of 2012

PRAYER in W.P.No.14505 of 2012: Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the 5th respondent dated 04.05.2012, quash the same and direct respondents 2 to 4 to approve the petitioner's appointment and pay the petitioner's salary as Headmistress of Lady M.Ct.Muthaiah Chettiar Girls Higher Secondary School, Purasawalkam, Chennai 600 084 from 06.01.2011.

PRAYER in W.P.No.34678 of 2012 : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for records relating to the order bearing Ref.No.Na.Ka.No.118355/Ta Pe Eil U 5/E3/2010 dated 28.11.2012 passed by the first respondent and consequential resolution dt. 05.01.2011 passed by the 4th respondent School Committee and to quash the same and consequently direct the 1st respondent to consider and appoint the petitioner to the post of Head-Mistress in the 4th respondent School.

W.P.No.14505 of 2012

For Petitioner : Mr.V.Selvaraj
For Respondents : Mr.S.Gunasekaran,
Additional Government Pleader for RR1 to 4
: Mr.Najeeb Usman Khan for R5 and R6
: Mr.P.Ganesan for
M/s.C.S.Associates for R7

For Petitioner : Mr.V.Govardhanan
For Respondents : Mr.S.Gunasekaran,
Additional Government Pleader for RR1 to 3
: Ms.Malarvizhi Udayakumar for R4
: Mr.V.Selvaraj for R5

C O M M O N O R D E R

Heard Mr.V.Selvaraj and Mr.V.Govardhanan, learned counsel for the petitioners. Mr.S.Gunasekaran, learned Additional Government Pleader and Mr.Najeeb Usman Khan, Mr.P.Ganesan, Ms.Malarvizhi Udayakumar and Mr.V.Selvaraj, learned counsel appearing for the respondents in both writ petitions.

2. The petitioners have approached this Court, seeking the following relief,

"To issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the 5th respondent dated 04.05.2012, quash the same and direct respondents 2 to 4 to approve the petitioner's appointment and pay the petitioner's salary as Headmistress of Lady M.Ct.Muthaiah Chettiar Girls Higher Secondary School, Purasawalkam, Chennai 600 084 from 06.01.2011.

To issue a writ of Certiorarified Mandamus, to call for records relating to the order bearing Ref.No.Na.Ka.No.118355/Ta Pe Eil U 5/E3/2010 dated 28.11.2012 passed by the first respondent and consequential resolution dt. 05.01.2011 passed by the 4th respondent School Committee and to quash the same and consequently direct the 1st respondent to consider and appoint the petitioner to the post of Head-Mistress in the 4th respondent School."

3. The case of the petitioners is as follows:-

The petitioner had been working as a Teacher in the fifth respondent School since 16.10.1979. According to her, she was fully qualified for the appointment as Head Mistress of the Higher Secondary School. In view of her eligibility, the fifth respondent School Committee promoted the petitioner and posted as Head Mistress in the fifth respondent School on 06.01.2011. On being promoted as Head Mistress, the papers were also forwarded to the Educational Authorities for approval.

4. While the petitioner was functioning as Head Mistress of the fifth respondent School, suddenly, without any prior notice, an order was issued on 04.05.2012, reverting the petitioner from

the post of Head Mistress to the post of P.G. Assistant, on the basis of alleged resolution passed by the School Committee on 04.05.2012. The said order was put to challenge in this writ petition. By virtue of the interim order passed by this Court, the petitioner continued as Head Mistress. On attaining the age of superannuation, she retired from service on 30.06.2014.

5. The learned counsel for the petitioner would draw the attention of this Court to the resolution passed by the School Committee dated 04.05.2012. In the resolution, it is stated that the appointment of the petitioner was not approved by the competent authority. Yet another reason was also stated that another PG Assistant was senior to the petitioner who was to retire very shortly.

6. The learned counsel for the petitioner would also submit that during the pendency of the writ petition, the competent authority vide proceedings dated 14.12.2012, had granted an approval for the appointment of the petitioner. As stated above, thereafter the petitioner had been continued in service and retired on 30.06.2014.

7. The Writ Petition No.34678 of 2012, was filed by one Senthamizhiselvi against the appointment of Malliga as Head Mistress in the fifth respondent School. Her representations seem to have been rejected by the School Committee and the authorities and therefore, she has approached this Court to challenge the rejection of her candidature for appointment in the place of the petitioner in the other writ petition. It is also an admitted fact that after the retirement of the petitioner Malliga on 30.06.2014, the said Senthamizhiselvi had been accommodated and appointed as Head Mistress of the said School.

8. In the above back drop of the case, this Court has to see what relief to be granted to petitioner in Writ Petition No.14505 of 2012. Admittedly, the petitioner Malliga was appointed and continued in service till the retirement on 30.06.2014. Her appointment was also approved by the competent authority, on the basis that she was fully qualified to hold the post. Moreover, by virtue of the interim order passed by this Court, she was continued in the post of Head Mistress and retired on 30.06.2014.

9. In all fours, this Court is therefore is of the considered view that the petitioner in Writ Petition No.14505 of 2012 is entitled to succeed in the writ petition. Therefore, the impugned order passed by the fifth respondent School Committee on 04.05.2012, is hereby set aside. Certain objections were raised for allowing the writ petition by the learned counsel for

the writ petitioner in W.P.No.34678 of 2012. This Court does not think that the other writ petitioner can have any axe to grind in the matter, since, she has been appointed as Head Mistress on retirement of Malliga. Moreover, in the face of the approval granted by the Educational Authority, regularising the appointment of the petitioner Malliga, who is the writ petitioner in W.P.No.14505 of 2012, the writ petition filed by the Senthamizhiselvi cannot be maintained as such. Further, the relief has claimed by the said Senthamizhiselvi had been granted in her favour, nothing survives for consideration any more in this Court as far as Senthamizhiselvi is concerned.

10. In view of the above conclusion, the writ petition in W.P.No.34678 of 2012 is closed and the writ petition in W.P.No.14505 of 2012 is allowed. It is hereby declared that for all purposes, the petitioner Malliga is deemed to have retired as Head Mistress of the fifth respondent School. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS IX)

//True copy//

Sub Assistant Registrar

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To

- 1.The Secretary,
The State of Tamil Nadu
Education Department (Higher Secondary)
Fort St.George,
Chennai 600 009.
- 2.The Director of School Education (Higher Secondary),
Chennai 600 006.
- 3.The Joint Director of School
Education (Higher Secondary),
Directorate of School Education,
DPI Campus, College Road, Chennai 600 006.
- 4.The Chief Educational Officer,
Panagal Building,
Saidapet,
Chennai 600 015.

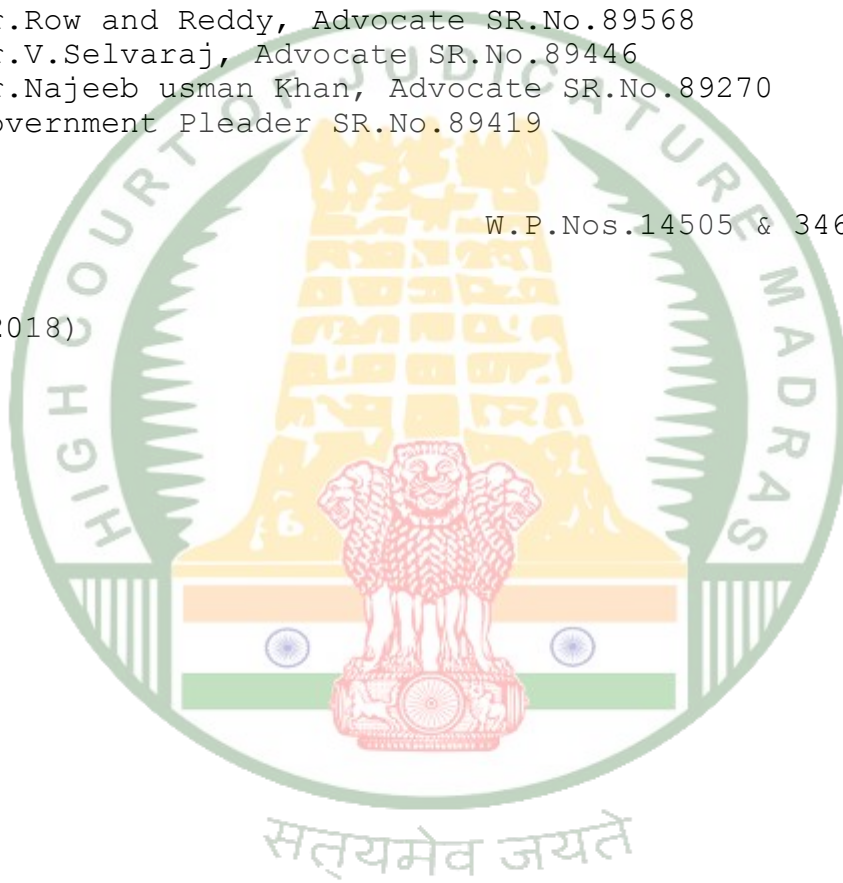
5.The District Educational Officer,
Chennai North,
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6.The Secretary School Committee
Lady M.CT.Muthaiah Chettiar Girls
Higher Secondary School,
13/14, Dr.Alagappa Road,
Purasawalkam, Chennai 600 084.

+1cc to Mr.C.S.Associates, Advocate SR.No.29603
+1cc to Mr.Row and Reddy, Advocate SR.No.89568
+1cc to Mr.V.Selvaraj, Advocate SR.No.89446
+1cc to Mr.Najeeb usman Khan, Advocate SR.No.89270
+2cc to Government Pleader SR.No.89419

W.P.Nos.14505 & 34678 of 2012

SSD(CO)
GN(15/02/2018)



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