

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 12.06.2019

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM****W.P. (MD) No.5280 of 2014**

M.Lakshmi

... Petitioner

Vs.

1.The Director of School Education,
College Road,
Chennai.

2.The Chief Educational Officer,
Sivaganga Educational District,
Sivaganga,
Sivaganga District.

3.The District Educational Officer,
Devakkottai Educational District,
Devakkottai,
Sivagangai District.

4.The Secretary,
Pethal Achi Girls Higher Secondary School,
(Government Aided School)
Devakkottai,
Sivaganga Distrct.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent dated 01.09.2013 in Na.Ka.No.8591/ 2/2012 and quash the same and consequently, directing the respondents herein to regularize the petitioner's services on the basis that she retired as Headmistress of the 4th respondent instituting on 31/05/2009 and to grant pension and other benefits to the petitioner on the basis that the petitioner retired as Headmistress of the 4th respondent institution.

For Petitioner	: Mr.R.Sundar Srinivasan
For R1 to R3	: Mrs.S.Srimathi
	Special Governance Pleader
For R4	: Mr.D.Ramesh Kumar

ORDER

The order of rejection, dated 01.09.2013, rejecting the claim of the writ petitioner to revise the scale of pay attached to the post of regular Headmistress as well as to pay the consequential



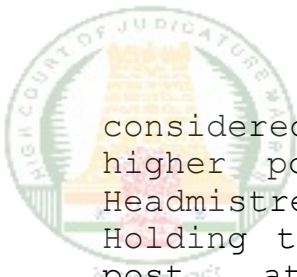
monetary and service benefits, is under challenge in the present writ petition.

2.The writ petitioner joined the service of the fourth respondent's School on 01.06.1972 as B.T. Assistant. The petitioner was continuing in service and he was posted as Headmistress (Additional Charge), with effect from 12.12.2002.

3.The learned counsel for the writ petitioner states that the writ petitioner was allowed to continue as Headmistress (Additional Charge), till her date of retirement on 31.05.2009. In view of the fact that the writ petitioner was allowed to continue as Additional Headmistress for more than 7 years, she is entitled to get the benefits attached to the post of Headmistress. However, the terminal and pensionary benefits of the writ petitioner were settled in the post of B.T. Assistant and not in the post of Headmistress. Thus, the writ petitioner is constrained to move the present writ petition.

4.The learned Special Government Pleader appearing on behalf of the respondent Nos.1 to 3 as well as the learned counsel appearing for the fourth respondent/School made submissions that it is an admitted fact that the writ petitioner was appointed as B.T. Assistant. Further, the writ petitioner was posted as Headmistress Additional Charge with effect from 12.12.2002. The case of the writ petitioner was not considered for regular appointment to the post of Headmistress, as the petitioner was not qualified during the relevant point of time. The promotion file was taken up by the School Committee concerned and there was no qualified Teachers available during the relevant point of time in the School and therefore, the writ petitioner was posted as Headmistress Additional Charge to administer the School. The writ petitioner was allowed to continue as Headmistress Additional Charge, till her date of retirement on 31.05.2009. However, a person, who was posted as Additional Charge, cannot claim the benefits attached to the higher post. The writ petitioner continued as B.T. Assistant and therefore, her pension as well as the pensionary benefits are settled in the post of B.T. Assistant. Accordingly, there is no infirmity in respect of the order of rejection passed by the first respondent in proceedings, dated 01.09.2013.

5.Considering the issues, this Court is of the considered opinion that the appointment to the post of Headmistress is to be made by the School Committee concerned by considering the names of all the eligible persons in accordance with the provisions of the Private Schools and Regulations Act. Admittedly, the appointment of the writ petitioner as Headmistress Additional Charge was not made by the competent School Committee. This apart, the appointment of the writ petitioner as Headmistress Additional Charge was not approved by the competent Educational Authority in accordance with the provisions of the Act. However, this Court is of the opinion that the appointments, which are all not approved cannot be



considered for the purpose of grant of pensionary benefits in the higher post. The writ petitioner was allowed to continue as Headmistress Additional Charge, till her date of retirement. Holding the Additional Charge, would not confer any right in the post attached and only in the event of regular promotion/appointment, the benefits attached to the post and claiming under the Act and Rules.

6.This being the legal principles to be followed, the order of rejection passed by the first respondent in proceedings, dated 01.09.2013 is in consonance with the provisions of the Private Schools and Regulations Act and it is an admitted fact that the appointment of the writ petitioner was not approved in the post of Headmistress and therefore, there is no infirmity. Accordingly, the writ petition is devoid of merits and stands dismissed. No costs.

Sd/-

Assistant Registrar(P & A)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The Director of School Education,
College Road,
Chennai.
- 2.The Chief Educational Officer,
Sivaganga Educational District,
Sivaganga,
Sivaganga District.
- 3.The District Educational Officer,
Devakkottai Educational District,
Devakkottai,
Sivagangai District.

+1CC TO MR.R.SUNDAR SRINIVASAN, Advocate Sr. No. 68233
+1CC TO MR.D.RAMESHKUMAR, Advocate Sr. No.68223
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 68983

W.P. (MD)No.5280 of 2014

12.06.2019

SGS (CO)

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