



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED : 25.09.2019
CORAM**

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND**

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.976 of 2019

and

CMP(MD)No.8769 of 2019

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The District Educational Officer,
O/o.The District Educational Officer,
Tirunelveli - 1. .. Appellant/Respondent

Vs.

N.Muthuselvi .. Respondent/Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.(MD).No.15429 of 2018, dated 17.07.2018.

Prayer in WP(MD). 15429 of 2018 :

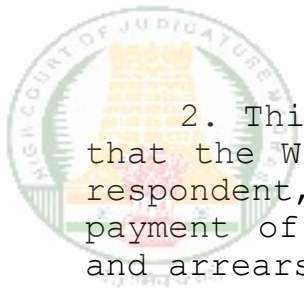
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in O.Mu. No. 1067/Aa5/18 dated 04.04.2018 on the file of the respondent and quash the same as illegal and consequently for a direction, directing the respondent to approve the appointment of the petitioner dated 29.09.2008 in the post of office assistant with all consequential benefits within the time period stipulated by this Honble Court.

For Appellant	: Ms.S.Srimathi Spl.Govt.Pleader
For Respondent	: Mr.T.Lajapathi Roy

JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Ms.Srimathi, learned Special Government Pleader appearing for the appellant and Mr.T.Lajapathi Roy learned counsel appearing for the respondent.



2. This appeal has been filed by the Government, on the ground that the Writ Court, while allowing the Writ Petition filed by the respondent, by the impugned order, dated 17.07.2018, has directed payment of service benefits, including monetary benefits of salary and arrears.

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3. According to the learned Special Government Pleader, the claim made by the Management, who had appointed the respondent in a non-teaching post on compassionate ground, is from the date on which the 1st respondent stated to have been appointed ie., on 29.09.2018, whereas, the post will be sanctioned only based on the Government Order and there cannot be any retrospective appointment.

4. On a reading of paragraph 7 of the impugned order, dated 17.07.2018, we find that there is no such direction issued by the Writ Court and it goes without saying that the respondent was appointed on a particular date on which date the post is sanctioned and monetary and service benefits are accrued to the respondent only from the said date. However, we find that the Management had appointed the respondent and sent the proposal to the Department on 05.03.2018, requesting for sanction of grant from 01.09.2008 onwards, on the ground that the respondent / writ petitioner was appointed on the said day.

5. In our view, the said issue is a separate cause of action, which the management has to pursue and in this appeal, we need not to give any direction, as the direction issued in the Writ Petition is very clear and the respondent, as of now, will be entitled to the benefits from the date on which she is appointed in the approved post.

6. With the above observation, the Writ Appeal stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Writs)

// True Copy //

Sub Assistant Registrar(CS)

MPK

To

The District Educational Officer,
O/o.The District Educational Officer, Tirunelveli - 1.

+1CC TO MR.T.LAJAPATHI ROY, Advocate Sr. No.89529

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.89793

W.A. (MD)No.976 of 2019

25.09.2019

GKG (CO)

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