



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2020

CORAM

**THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.A(MD)No.1633 of 2018
and
C.M.P(MD)No.11921 of 2018
against WMP(MD).NO.14838 of 2018
IN
WP.(MD).NO.16762 OF 2018

1.The Joint Director of School Education (Personnel),
EVK Sampath Maaligai,
DPI Campus, College Road,
Nungampakkam,
Chennai - 600 006.

2.The Chief Educational Officer,
Office of the Educational Officer,
Sarva Siksha Abiyan,
Pudukottai.

.... Appellants/Respondents

Vs

P.Vijayaraghavan

.... Respondent/Petitioner

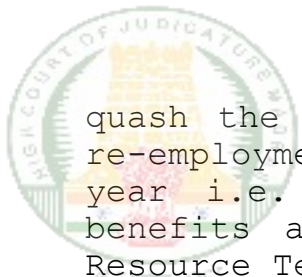
Prayer : Appeal filed under Clause 15 of the Letters Patent, to set aside the order, dated 13.07.2018, passed in W.M.P(MD)No.14838 of 2018 in W.P(MD)No.16762 of 2018 and dismiss the writ petition.

Prayer in WMP(MD). 14838/ 2018 :

To direct the respondents to allow the petitioner to work continuously as Block Resource Teacher Educator in the Block Resource Centre, Pudukottai till the end of the academic year i.e. from 01.08.2018 to 31.05.2019 pending disposal of this writ petition.

Prayer in WP(MD). 16762/ 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 relating to the impugned order passed by the second respondent dated 16.07.2018 and



quash the same and consequently direct the respondents to provide re-employment / extension of service till the end of the academic year i.e. from 01.08.2018 to 31.05.2019 with all consequential benefits and allow the petitioner to work continuously as Block Resource Teacher Educator in the Block Resource Centre, Pudukottai.

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For Appellants :Mrs. S.Srimathy,
Special Government Pleader
For Respondent :Mr.D.Shanmugaraja Sethupathi

JUDGMENT

[Judgment of the Court was delivered by **B.PUGALENDHI, J**]

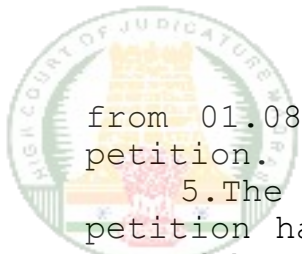
This writ appeal is filed as against the order passed in W.M.P (MD)No.14838 of 2018 in W.P(MD)No.16762 of 2018, dated 13.07.2018, in and by which, the learned Single Judge passed an interim order, which reads as follows:

"the petitioner's service as Block Resource Teacher Educator shall not be dispensed with from 01.08.2018 until further orders. It is made clear that the petitioner's service shall be utilised beyond 31.07.2018 by way of re-employment and in that case, necessary orders shall also be passed by the respondents."

2.The respondent herein / petitioner was appointed as a Block Resource Teacher Educator in the year 2006 and he got retired on attaining the age of superannuation on 31.07.2018. While so, the respondent sent a representation, dated 10.07.2018 to the 2nd appellant to provide him with re-employment or extension of service till the end of the academic year 2018-2019. But the request of the respondent was negatived by the appellants that the Teachers, working in the School alone are entitled for re-employment or extension of service till the end of the academic year and there cannot be any extension of service to the Block Resource Teacher Educator.

3.Aggrieved over the rejection of the request, the respondent / petitioner filed a writ petition in W.P(MD)No.16762 of 2018, challenging the rejection order, dated 16.07.2018 and for a consequential relief to provide him with re-employment or extension of service till the end of the academic year, i.e., from 01.08.2018 to 31.05.2019, with all consequential benefits and allow him to work continuously as Block Resource Teacher Educator in the Block Resource Centre, Pudukkottai.

4.The respondent has also filed a miscellaneous petition in W.M.P(MD)No.14838 of 2018, to direct the appellants to allow him to work continuously as Block Resource Teacher Educator in the Block Resource Centre, Pudukkottai till the end of the academic year, ie.,



from 01.08.2018 to 31.05.2019, pending disposal of the said writ petition.

5.The learned Single Judge, while entertaining the writ petition has also granted an interim relief, as similar orders were passed by this Court in respect of some other Block Resource Teacher Educators. Aggrieved over the interim order, dated 13.07.2018 passed in W.M.P(MD)No.14838 of 2018 in W.P(MD)No.16762 of 2018, this writ appeal is filed.

6.Heard Mrs.S.Srimathy, learned Special Government Pleader, appearing for the appellants and Mr.D.Shanmugaraja Sethupathi, learned Counsel appearing for the respondent.

7.The learned Special Government Pleader submitted that the appointment of Block Resource Teacher Educators is altogether a different mode of appointment and they are not Teachers, recruited for the schools. Moreover their work is to visit the Schools and check whether the Teachers, are teaching the students properly. The work of the Block Resource Teacher Educators is only supervisory in nature and therefore, the question of the students would be affected in the middle of the academic year would not arise at all. She further submitted that the scheme of re-employment to the Teachers, who are retiring on attaining the age of superannuation, in the middle of the academic year was brought into force vide G.O.No.249, Health Education and Local Administration Department (Education), dated 09.02.1959, based on the prevailing situation at that relevant point of time. At present, there are fifteen thousand surplus Teachers in the Education Department. When the Government is finding difficulty in managing these surplus Teachers, the necessity for re-employment after superannuation, does not arise in this case. Moreover, the petitioner is not a Teacher, working in a School and his mode of appointment and the nature of the work is entirely different from that of a Teacher and therefore, he cannot be extended with the benefit under G.O.No.249, Health Education and Local Administration Department (Education), dated 09.02.1959 also.

8.The learned Special Government Pleader further submitted that the interim prayer as well as the main prayer sought by the petitioner before the writ Court are one and the same. Therefore, granting him the interim relief would amount to allowing the main writ petition itself. Anyhow, the interim order has been granted at the stage of admission without providing an opportunity to the appellants.

9.Mr.D.Shanmugaraja Sethupathi, learned Counsel appearing for the respondent submitted that the persons similarly appointed like the petitioner have also been absorbed by the Government in the Schools and the benefit of re-employment was also extended by this Court to them. Therefore, when similarly placed persons were given the benefit of re-employment, the respondent should also be extended



10.Considering the rival submissions made on either side, this Court finds that there are merits in the grounds raised by the appellants in this writ appeal and the appeal is allowed with a request to the learned Single Judge, to dispose of the writ petition in W.P(MD)No.16762 of 2018 as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Dsk

To

1.The Joint Director of School Education (Personnel),
EVK Sampath Maaligai,
DPI Campus, College Road,
Nungampakkam,
Chennai - 600 006.

2.The Chief Educational Officer,
Office of the Educational Officer,
Sarva Siksha Abiyan,
Pudukottai.

3.The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to SGP (SR-24362[F] dated 08/12/2020)

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-24226[F] dated 07/12/2020)

W.A(MD)No.1633 of 2018

04.12.2020

AC (CO)

NR (21/12/2020) 4P : 6C