



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 05.10.2021
PRONOUNCED ON : 25.10.2021

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)Nos.10063 of 2012, 5553 of 2016 and 2228 of 2017
and
W.M.P. (MD)Nos.4977 of 2016 and 1846 of 2017

W.P. (MD)No.10063 of 2012:-

Kumari Girija ... Petitioner

vs.

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

2.The Chief Educational Officer,
Kanyakumari District, Nagercoil.

3.The District Educational Officer,
Kuzhithurai Educational District,
Marthandam, Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent in his proceedings in Na.Ka.No.12023/A2/2008, dated 02.06.2011 and quash the same as illegal and consequently, to direct the respondents to approve the petitioner's promotion as Higher Secondary Headmistress in the permanent vacancy available in Sree Devi Girls Higher Secondary School, Kollencode with effect from 01.06.2004 to 30.06.2010 and to count the service of the petitioner served as incharge Headmistress from 01.06.2004 to 30.06.2010 in the permanent vacancy of Higher Secondary Headmistress and confer all monetary benefits from 01.06.2004 to 30.06.2010 to the petitioner.

For Petitioner :Mr.B.Saravanan
for Mr.J.Anandhavalli
For Respondents :Mr.M.Linga Durai
Government Advocate



W.P. (MD)No.5553 of 2016:-

P.Ajitha

... Petitioner

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vs.

- 1.The State of Tamil Nadu
represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai - 600 009.
- 2.The Director of School Education,
College Road,
Chennai - 600 006.
- 3.The Chief Educational Officer,
Nagercoil, Kanyakumari District.
- 4.The District Educational Officer,
Kuzhithurai Educational District,
Kuzhithurai, Kanyakumari District.
- 5.The Secretary,
Sree Devi Girls Higher Secondary School,
Kollemcode-629 160,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceeding issued by the fourth respondent DEO in Oo.Mu.No.6906/Aa2/2014, dated 19.05.2015 and to quash the same insofar as the petitioner is concerned and further to direct the respondents 3 to 5 herein to approve forthwith the appointment of the petitioner as P.G.Assistant in English in the fifth respondent School with effect from 01.06.2004 with all attendant benefits including the salary and allowances from the said date.

For Petitioner : Mr.Isaac Mohanlal
Senior Counsel
for Mr.T.Cibi Chakraborty

For R1 to R4 : Mr.M.Linga Durai
Government Advocate



W.P. (MD) No.2228 of 2017

P.Ajitha

... Petitioner

vs.

1.The State of Tamil Nadu
represented by its Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.

2.The Director of School Education,
College Road, Chennai - 600 006.

3.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

4.The District Educational Officer,
Kuzhithurai Educational District,
Kuzhithurai, Kanyakumari District.

5.The Secretary,
Sree Devi Girls Higher Secondary School,
Kollemcode-629 160,
Kanyakumari District.

... Respondents

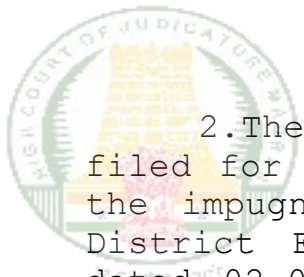
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceeding issued by third respondent CEO in Na.Ka.No. 2742/Aa1/2016, dated 16.09.2016 and to quash the same insofar as the petitioner is concerned and further to direct the respondents 3 to 5 herein to approve forthwith the appointment of the petitioner as P.G.Assistant in English in the fifth respondent School with effect from 01.06.2004 with all attendant benefits including the salary and allowances from the said date.

For Petitioner : Mr.Isaac Mohanlal
Senior Counsel
for Mr.T.Cibi Chakraborty

For R1 to R4 : Mr.M.Linga Durai
Government Advocate

COMMON O R D E R

The petitioners in these Writ Petitions are working in a private School, which is shown as the fifth respondent in W.P.(MD) Nos.5553 of 2016 and 2228 of 2017.



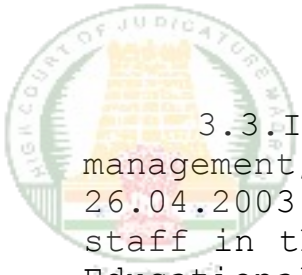
2.The first Writ Petition in W.P.(MD)No.10063 of 2012, is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the third respondent, namely, the District Educational Officer, Kuzhithurai Educational District, dated 02.06.2011 and consequently, to direct the respondents to approve the petitioner's promotion as Higher Secondary Headmistress in the permanent vacancy available in Sree Devi Girls Higher Secondary School, Kollancode, with effect from 01.06.2004 and to count the service of the petitioner served as in-charge Headmistress from 01.06.2004 to 30.06.2010 in the permanent vacancy of Higher Secondary Headmistress and confer all monetary benefits from 01.06.2006 to 30.06.2010.

2.1.The other two Writ Petitions are filed challenging the order refusing to approve the appointment of the petitioner as P.G.Assistant (English) in the same School with effect from 01.06.2004 and for consequential reliefs.

3.Brief facts that are necessary for the disposal of these Writ Petitions are as follows:

3.1.The petitioner in W.P.(MD)No.10063 of 2012, by name, Kumari Girija, was appointed as P.G.Assistant (English) Teacher in Sree Devi Girls Higher Secondary School, Kollancode in the year 1979. The petitioner was fully qualified at the time her appointment, as she had completed M.A.(English), M.Ed., and M.Phil. The School, in which the petitioner was appointed, was administered by a private institution. It is also stated that the said School was enjoying minority status by virtue of a declarative relief obtained by the School in O.S.No.5934 of 1987 by the City Civil Court, Madras. However, the decree of the Trial Court was reversed in an appeal in A.S.No.300 of 1992 filed by the Government. The decree of the Appellate Court also was confirmed by this Court in S.A.No.1740 of 1993. However, the School was enjoying the minority status by virtue of an order of injunction granted by this Court in C.M.P.No.18855 of 1993 in S.A.No.1740 of 1993.

3.2.After the appointment of the petitioner as P.G.Assistant (English), it is stated that then Headmistress of the School retired from service on attaining the age of superannuation on 31.05.2004. Being the senior most P.G.Assistant, the petitioner became in-charge of the Headmistress of the School with effect from 01.06.2004. It is stated by the petitioner that she is eligible to be promoted in the permanent vacancy in the post of Higher Secondary Headmistress with effect from 01.06.2004. The appointment was not approved even though the petitioner discharged the duties of Headmistress.



3.3.It is admitted that due to some dispute in the management, there was no School Committee functioning from 26.04.2003. To avoid hardships to the teaching and non-teaching staff in the School, the District Educational Officer, Kuzhithurai Educational District, the third respondent in W.P.(MD)No.10063 of 2012, was appointed as a Special Officer, vide G.O.(Ms)No.154, School Education, (Higher Secondary) Department, dated 05.08.2005. Though the third respondent was acting as a Special Officer of the School in connection with sanctioning of salary, leave benefits, pay fixation, increments, Provident Fund advance and pension, etc., of the teaching and non-teaching staff as per Section 53-A (2) of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, the Special Officer did not take any steps to seek approval for having the petitioner as Headmistress of the School.

3.4.In the meanwhile, the petitioner gave a representation to the third respondent regarding approval for her promotion as Higher Secondary Headmistress. However, the third respondent did not take any steps in this regard. The petitioner, therefore, sent a representation to the first respondent on 11.10.2008. However, the first respondent by a communication, dated 03.12.2008, directed the petitioner to approach the third respondent, who was appointed as Special Officer of the School and who is also empowered to function as the Secretary of the School Committee. Thereafter, the petitioner submitted an application in person on 07.02.2009 enclosing all her prior representations and the relevant Government Orders and other communications including the communication of the Director of School Education. Unfortunately, even then the third respondent did not pass an order. Meanwhile, the petitioner attained the age of superannuation on 30.06.2010, but, she was permitted to work on re-employment, as in-charge of Headmistress till 31.05.2011.

3.5.It is the case of the petitioner that the third respondent during his tenure as Special Officer did not bother to take any steps to approve the petitioner's promotion as Higher Secondary Headmistress. The petitioner, therefore, approached this Court by filing a Writ Petition in W.P.(MD)No.3251 of 2011 and this Court, by an order, dated 22.03.2011, directed the third respondent to consider the petitioner's representation, dated 07.02.2009 within a period of six weeks. It was, thereafter, the third respondent passed an order, dated 02.06.2011, on the petitioner's representation, dated 07.02.2009 refusing to grant approval of petitioner's promotion as Higher Secondary Headmistress. The order passed by the third respondent/Special Officer, reads as follows:

“பார்வைக் கடிதப்படி கொல்லங்கோடு ஸ்ரீதேவி (ம) மேல்நிலைப் பள்ளி

(2-துவ) (பெறுவது) சில பிரச்சனை காரணமாக 05.08.2005 முதல் குழித் துறை

<https://hcservices.courts.gov.in/hcservices/>



மாவட்டக் கல்வி அலுவலரை தனி அலுவலராக நியமனம் செய்து அரசு ஆணையிட்டுள்ளதன் படியாக செயல்பட்டு வருகிறது. ஒரு தனியார் உதவிபெறும் மேல்நிலைப் பள்ளியில் தாளாளர் நியமனம் செய்த பின் ஏற்பளிப்பு செய்வது மட்டுமே தனி அலுவலரது கடமையாகும். தனி அலுவலர் ஒருவரை தலைமையாசிரியராக நியமனம் செய்து பின் ஏற்பளிப்பு செய்து மானியம் வழங்க அரசு ஆணை ஏதும் இல்லை. மேலும் தங்களை அப்பள்ளியின் முதகலை பட்டதாரி ஆசிரியராகுமே தவிர தங்களுக்கு யாரும் நியமன ஆணை தரப்படவில்லை. எனவே இதனை ஏற்பளிக்க முடியவில்லை என்ற விவரம் தெரிவிக்கப்படுகிறது.”

3.6.Hence, the petitioner, who is the retired Headmistress of the School, by name, Kumari Girija, has filed W.P.(MD)No.10063 of 2012.

3.7.W.P.(MD)Nos.5553 of 2016 and 2228 of 2017 are filed by another Teacher, by name, P.Ajitha, who is still working in the fifth respondent School, Sree Devi Higher Secondary School, Kollancode, as P.G.Assistant, unfortunately, without salary for a long period. The petitioner was appointed as B.T.Assistant on consolidated pay by the Management on 04.08.1997. After the retirement of then Headmistress, by name, Ambikadevi, on 31.05.2004, the petitioner in W.P.(MD)No.10063 of 2012, started functioning as Headmistress of the School. In view of the fact that the senior most Teacher was to be promoted as Headmistress of the School with effect from 01.06.2004, the petitioner in the 2nd and 3rd Writ Petitions was appointed as P.G.Assistant (English) on 01.06.2004. The order of appointment, dated 01.06.2004, filed before this Court shows that the petitioner was appointed as per the resolution passed by the School Committee in the vacancy of Smt.Kumari Girija, who was promoted as Headmistress. It is seen that the order of appointment reads as if it was a promotion in the vacancy of the senior most Teacher, who was promoted as Headmistress of the School.

3.8.As it was pointed out earlier while dealing with the first Writ Petition, the State Government vide G.O(Ms)No.154, dated 05.08.2005, imposed an order of direct payment and appointed the District Educational Officer, Kuzhithurai, namely, the fourth respondent, in W.P.(MD)No.2228 of 2017, as Special Officer, after the appointment of the petitioner with effect from 01.06.2004. It is the specific case of the petitioner that she was continuously serving in the post and regularly taking classes to the knowledge of the Special Officer, who assumed Office shortly after the Government Order, dated 05.08.2005.

3.9.Subsequent to the appointment of the petitioner, it appears that the entire dispute in the management came to be settled and a new set of persons were selected and took over the administration of the School with effect from 02.01.2011. Though the Sub Registrar, Marthandam, registered the change of management



under Form-VII on 14.02.2011, and the new Secretary came into Office, the fourth respondent recognised the newly elected Secretary of the School only by an order, dated 19.03.2014. Since the new Officer bearers were recognised as Educational Agency by the fourth respondent by order, dated 19.03.2014, it is seen from the records that the District Educational Officer/fourth respondent herein, appears to have withdrawn himself from the position as Special Officer.

3.10. Interestingly, the new Secretary issued fresh order of appointment to the petitioner on 01.06.2011 in the vacancy, that arose on account of retirement of Smt. Kumari Girija, as P.G. Assistant with effect from 31.05.2011. The newly elected Secretary submitted a proposal to the fourth respondent for approval to the various appointments made in the School including the petitioner. However, the approval regarding the petitioner's appointment was given as if she was given appointment by the new Secretary on 01.06.2011. It is unfortunate to note that the Special Officer, who has seen the Headmistress of the School functioning and the petitioner working as B.T. Assistant (English), has not inclined to take steps to seek approval with effect from the date on which the respective petitioners started functioning as Headmistress of the School as well as B.T. Assistant (English). From the order impugned in the W.P.(MD)No.10063 of 2012, it is seen that the fourth respondent seems to think as he cannot approve the appointment, being the Appointing Authority as Special Officer. This has created the whole problem for the petitioner in the two Writ Petitions.

3.11. The fourth respondent in W.P.(MD)No.2228 of 2017, returned the proposal submitted by the new Secretary seeking approval for the petitioner's appointment by an order, dated 10.11.2014 pointing out certain deficiencies. The management of the School re-submitted the proposal to the third respondent again through fourth respondent on 24.11.2014. The fourth respondent once again returned the proposal by an order, dated 19.01.2015 raising certain doubts. Finally, the fourth respondent forwarded the proposal to the Chief Educational Officer, regarding the approval for the appointment of the petitioner on 04.02.2015. However, the fourth respondent himself by an order, dated 19.05.2015, informed the Secretary of the School that there is no provision in the Rule to approve the appointment made by the Educational Agency during the academic year 2011-12, since new Educational Agency was not recognised and the fifth respondent School is a non-minority School under direct payment with a Special Officer being there to manage the School

3.12. The fifth respondent School, thereafter, submitted a representation to the Chief Educational Officer,



requesting the third respondent to issue No Objection Certificate to fill up the vacancy of teaching and non-teaching posts. Simultaneously, the petitioner also submitted a representation, dated 03.11.2015 to the third respondent for giving approval for her appointment at least from 01.06.2011. In the said representation, the petitioner specifically mentioned about her appointment as B.T.Assistant (English) with effect from 01.06.2004 and her credentials. It was also stated by her in the said representation that she has maintained 100% pass in the subject of English right from the date of her appointment. Pointing out that approval for her appointment was delayed due to the internal dispute in relation to the management or educational agency, she wanted approval atleast with effect from the date on which, her appointment was communicated immediately after the new management assumed Office. Since there was no response from any of the educational authorities, the petitioner was constrained to file W.P.(MD)No.5553 of 2016 challenging the order of fourth respondent, dated 19.05.2015 refusing to approve the appointment of the petitioner with effect from 01.06.2011.

3.13.During the pendency of the Writ Petition in W.P.(MD) No.5553 of 2016, the petitioner obtained an interim direction in W.M.P.(MD)No.4977 of 2016, by which the third respondent was directed to pass orders on the letter submitted by the School, dated 29.05.2015, seeking approval to the appointment of the petitioner with effect from 01.06.2004. Thereafter, the third respondent by impugned order in W.P.(MD)No.2228 of 2017, dated 16.09.2016, refused to grant approval for the appointment of the petitioner either with effect from 01.06.2004 or with effect from 01.06.2011 by stating that there are glaring discrepancies between the representations of the educational agency and the facts noted in the interim direction of this Court. Challenging the said order of the third respondent, dated 16.09.2016, W.P.(MD) No.2228 of 2017 is filed by the petitioner in W.P.(MD)No.5553 of 2016.

4.The learned Senior Counsel for the petitioner in W.P.(MD) Nos.5553 of 2016 and 2228 of 2017, submitted that the appointment of the petitioner, as P.G.Assistant (English) in the fifth respondent School was against the sanctioned vacancy assessed by the Government for grant. The petitioner's qualification to hold the post is not disputed. Right from the date of appointment of the petitioner, ie., with effect from 01.06.2004, it is submitted that the petitioner is continuously working in the post without any break or blemish. Pointing out that there is no rival claim for the post and the petitioner's appointment was by the proper authority, the learned Senior Counsel for the petitioner submitted that the impugned orders passed by the third and fourth respondents are arbitrary.



5.The learned Senior Counsel for the petitioner referring to the nature of order passed in the second appeal enabling the fifth respondent School to enjoy the minority status, submitted that the appointment of the petitioner on 01.06.2004 is perfectly valid and no legal infirmity with reference to the Rules can be cited to describe the appointment of the petitioner as irregular and that therefore, the official respondents ought to have approved the appointment of the petitioner with effect from 01.06.2004 even though her appointment in 2011 was at a time, when the School was under direct management and the fourth respondent was in Office as Special Officer. Pointing out that the fifth respondent School was enjoying the minority status as on 01.06.2004, learned Senior Counsel for the petitioner specifically submitted that Rule 15(4) of Tamil Nadu Recognised Private School (Regulation) Rules, 1974, for filling up the post was not applied to the fifth respondent School and that the petitioner's appointment should be approved with effect from 01.06.2004 without any legal impediment. Stating that the orders impugned in the two Writ Petitions filed by Tmt.P.Ajitha, do not indicate any valid reasons for refusing to approve the appointment, the learned Senior Counsel further submitted that the petitioner's right has to be protected applying equitable principles.

6.It is also pointed by the learned Senior Counsel for the petitioner that the impugned orders are passed without giving any opportunity to the petitioner or to the management before passing the same. The learned Senior Counsel for the petitioner referring to the fact that the petitioner is working without salary for the past fifteen years, submitted that the petitioner is entitled to the relief on moral and equitable grounds, especially when the management of the School and the Special Officer have acknowledged her sincere hard work put by her to give good result in her subject.

7.The learned Senior Counsel appearing for the petitioner made a legal submission that the whole mess was due to the stand taken by the fourth respondent, who was appointed as the Special Officer of the School. Referring to the order impugned in the first Writ Petition in W.P.(MD)No.10063 of 2012, the learned Senior Counsel appearing for the petitioner submitted that it was the indifferent attitude and stand taken by the fourth respondent, who neglected to acknowledge the functioning of Headmistress and the Teacher, the petitioners were put in this precarious situation.

8.The learned Counsel appearing for the petitioner in W.P. (MD)No.10063 of 2012 further submitted that the order impugned in the two Writ Petitions are not only illegal, but also against the



principles of natural justice. When the fact remains that the petitioner in W.P.(MD)No.10063 of 2012 was serving as Headmistress of the School, the third respondent, who had run the School through the petitioner acting as Headmistress of the School, ought to have approved the promotion of the petitioner as Headmistress with effect from 01.06.2004. Pointing out that the Director of School Education directed the petitioner in W.P.(MD)No.10063 of 2012 to approach the third respondent in connection with her promotion as Headmistress, the learned Counsel further submitted that the reasons assigned by the third respondent declining to grant approval are unsustainable and the impugned order of the third respondent cannot stand, so as to deprive her of the salary attached to the promotional post for the period from 01.06.2004 to 30.06.2010.

9.A counter affidavit has been filed by the third respondent in W.P.(MD)No.10063 of 2012. The third respondent in W.P.(MD)No.10063 of 2012, is none else than the Special Officer who was in-charge of the administration of the School for a long time. It is the case of the third respondent that due to the dispute in the management, the School Committee was defunct from 26.04.2003 and that direct payment was ordered in the interest of students and Teachers. It is admitted by the third respondent that vide G.O.Ms.No.154, dated 05.08.2005, the fifth respondent School came under direct supervision of Government and the third respondent was appointed as the Special Officer to administer the day-to-day affairs of the School. In the counter affidavit of the third respondent, it is also stated as follows:

"5.I submit that the Headmistress post was vacant post on 31.05.2004 due to the retirement of one Tmt.Ambigadevi at the petitioner's school. Since the Headmistress is the pivotal post for the running of the school administration and petitioner being the senior most she was appointed as the Headmistress in charge with effect from 01.06.2004. As per the prevailing rules and conditions if the petitioner was appointed as the Headmistress and her name was forwarded by the educational agency of the petitioner's school then definitely her name would be considered for the post of Headmistress. But in this case the school committee was not functioning with effect from 26.04.2003 and the vacancy for the post of Headmistress to the petitioner's school was created only on 31.05.2004. Since the school committee was not functioning with effect from 26.04.2003 they are not in position to appoint any person in the post of Headmistress of the vacancy created with effect from 31.05.2004. further the petitioner's school comes under the control of 3rd respondent, who had been appointed as the Special Officer with effect from



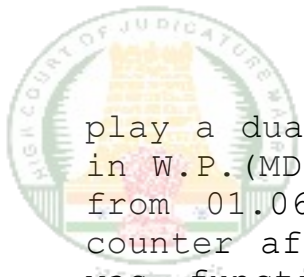
05.07.2005, this respondent do not have any power to appoint the petitioner as the Headmistress with effect from 01.06.2004. hence, the petitioner was appointed as in charge Headmistress only with effect from 01.06.2004 in accordance with prevailing rules by the respondents. So there is no illegality or infirmity committed on the part of the respondents regarding the petitioner's case and she had filed this writ petition by totally misconceiving the crux of the issue."

10.No counter affidavit is filed in other Writ Petitions.

11.From the averments made in the affidavit filed in support of these Writ Petitions and the counter affidavit filed in W.P. (MD)No.10063 of 2012, this Court has no reason to disbelieve the statements on facts. The fifth respondent School, in which the petitioners were in service, was enjoying the status of minority till the disposal of S.A.No.1740 of 1997 on 29.04.2005. Therefore, the appointment of the petitioner in W.P.(MD)No.2228 of 2017 with effect from 01.06.2004 is valid. The appointment of the petitioner in W.P.(MD)No.2228 of 2017, dated 01.06.2004, was by the Secretary of the School as per the resolution passed by the School Committee. The petitioners were discharging their duties as Headmistress and P.G.Assistant respectively from 01.06.2004. Hence, one can expect that the Teachers should get the statutory benefits. Unfortunately, for the Teachers, there was some dispute in the management and the petitioners' appointment with effect from 01.06.2004 was not approved as there was no request for approval except the representations of the petitioners.

12.When the fourth respondent was appointed as Special Officer of the School, the Teacher, namely, the petitioner in W.P. (MD)No.5553 of 2016, was functioning under the fourth respondent who was in place as Educational Agency. Unfortunately, he failed to seek approval nor claim grant. Due to the dispute in the fifth respondent School, the State Government issued G.O.Ms.No.154, dated 05.08.2005 in exercise of its power under Section 53A of Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, brought the School under direct management. It is not in dispute that the dispute was pending before the Civil Court and therefore, the Special Officer, who was appointed in terms of Section 53A(2) of the Act, is expected to discharge the functions of Educational Agency, the School Committee or the Secretary in relation to the fifth respondent School.

13.When the fourth respondent was entrusted to act as Educational Agency or the Secretary of the School, the fourth respondent failed to discharge the functions of the Educational Agency or the Secretary of the School. The fourth respondent School Committee with a wrong notion that he cannot



play a dual role. The fourth respondent knew that the petitioner in W.P.(MD)No.5553 of 2016 was appointed as a Teacher with effect from 01.06.2004 and the fourth respondent has admitted in the counter affidavit that the petitioner in W.P.(MD)No.10063 of 2012 was functioning as Headmistress. For want of approval, the petitioner in W.P.(MD)No.5553 of 2016 was working as Teacher without salary, whereas, the petitioner in W.P.(MD)No.10063 of 2012 is working as Headmistress in-charge of the School till her retirement without any monetary benefits. This Court is of the view that the petitioners in these Writ Petitions have suffered monetary loss on account of the indifferent attitude of the fourth respondent. The fourth respondent, who was duty bound to claim salary for the petitioner in W.P.(MD)No.5553 of 2016 after giving approval and to approve the appointment of the petitioner in W.P.(MD)No.10063 of 2012, has expressed his hesitation because of his understanding that he can give approval, if the appointment is made by the Secretary or management of the School, but, he cannot approve the appointment after appointing a person as Headmistress. He miserably failed to recognise his duty as a Special Officer acting in the place of Educational Agency and the School Committee.

14.It may be true that the petitioner in W.P.(MD)No.10063 of 2012 was never appointed as Headmistress. However, the petitioner was in-charge Headmistress with effect from 01.06.2004. When the fourth respondent was the Special Officer of the School, it was his duty to see that the petitioner, who is senior most in the School, is appointed as Headmistress of the School, if he was supposed to discharge his duty as Special Officer in the place of regular management of the School.

15.Similarly, in the case of the Teacher, the petitioner in other two Writ Petitions, was appointed by the then management, which was enjoying the minority status then. The fourth respondent/Special Officer did not take care to seek approval for the appointment of the Teacher. Hence, this Court is of the view that there may be some technical reasons for immediately approving the appointment of petitioner in these Writ Petitions, as Headmistress of the School and as P.G.Assistant (English), as the case may be. The unfortunate situation for both the Teachers, therefore, appears to be on account of total indifference, negligence and lack of prudence exhibited by the Special Officer of the School.

16.The petitioner in W.P.(MD)No.5553 of 2016, who was appointed with effect from 01.06.2006, was made to submit a representation to seek approval for her appointment with effect from the date of her re-appointment, ie., from 01.06.2011, out of



before the new Office bearers were recognised by the Education Department. The Special Officer continued in Office till the dispute was resolved. It is stated that the dispute in the management was settled and the new set of Office bearers got elected and took over the administration of the School on 02.01.2011. However, only in March 2014, the Joint Director of School Education approved the new Educational Agency. However, the request for recognition for the new management had been submitted even in 2011. Thereafter, the new administration has sought for approval for approving the appointment by the management from the date on which they assumed office.

17.This Court is not concerned about what has happened to other appointments. However, the appointments of the petitioners in these Writ Petitions are concerned, this Court is unable to see any irregularity at the time when they assumed charge. While the petitioner in W.P.(MD)No.5553 of 2016 was discharging her duty as Teacher with effect from 01.06.2004, the petitioner in W.P.(MD) No.10063 of 2012 was serving as Headmistress of the School till her retirement. It is unfortunate that the petitioner in W.P.(MD) No.5553 of 2016 is deprived of her salary for a long period from 01.06.2004 till date and the petitioner in W.P.(MD)No.10063 of 2012 is deprived of her emoluments as Headmistress of the School, even though she was drawing the salary of P.G.Assistant.

18.In the peculiar circumstances of the case, this Court though has found some procedural lapses on account of total inaction on the part of the Special Officer, is unable to decline relief to the petitioners, especially having regard to their statutory rights to get approval and get salary with effect from the date of their appointment or promotion, irrespective of the delay, which occurred for no fault of them. As regards the petitioner in W.P.(MD)No.5553 of 2016, if the petitioner is deprived of her salary, that would amount to depriving her right to livelihood given under Article 21 of Constitution of India. This Court is of the firm view that depriving the petitioners of their legitimate salary in the factual background, would only result in denial of justice.

19.Hence, in exercise of the power under Article 226 of Constitution of India, this Court is inclined to allow all the Writ Petitions. Accordingly, these Writ Petitions are allowed in the following lines:

19.1.The order impugned in W.P.(MD)No.10063 of 2012 is quashed and the respondents are directed to approve the promotion of petitioner as Higher Secondary Headmistress in Sree Devi Girls Higher Secondary School, Kollancode, with effect from 01.06.2004 and to place the petitioner in the service of the petitioner as in-charge of the



Headmistress of the School from 01.06.2004 to 30.06.2010 and confer her all the monetary benefits, which are due for the period from 01.06.2004 to 30.06.2010, which shall also enable her to get the retirement benefits refixed accordingly. The respondents shall disburse the monetary benefits.

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19.2.The order impugned in W.P.(MD)No.5553 of 2016, insofar it relates to the petitioner is quashed. The respondents 3 to 5 are directed to approve the appointment of the petitioner as P.G.Assistant (English) in the fifth respondent School with effect from 01.06.2004 with all attendant benefits including salary and allowances from the date of her appointment. The respondents shall disburse the salary and other benefits accordingly.

19.3.In view of the passed order in W.P.(MD)No.5553 of 2016 and the reasons stated above, the order impugned in W.P.(MD) No.2228 of 2017, dated 16.09.2016 is quashed. However, no further direction is necessary in view of the direction already issued by this Court in W.P.(MD)No.5556 of 2016.

19.4.The entire exercise shall be done by the respondents within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Cmr

To

- 1.The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St.George, Chennai - 600 009.
- 2.The Director of School Education,
College Road, Chennai - 600 006.
- 3.The Chief Educational Officer,
Nagercoil, Kanyakumari District.



4.The District Educational Officer,
Kuzhithurai Educational District,
Kuzhithurai, Kanyakumari District.

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+2 CC to M/s.ISSAC CHAMBERS, Advocate SR-32608,32607 dated
26/10/2021

+1 CC to M/s.S.SAJI BINO, Advocate, SR-32403, dated 25/10/2021

+1 CC to M/s.J.ANANDHAVALLI, Advocate, SR-32428, dated 25/10/2021

W.P.(MD)Nos.10063 of 2012, 5553 of 2016 and 2228 of 2017
25.10.2021

RK/UV (09/11/2021) 15P 9C