



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.7814 of 2021

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T.Maheswari

... Petitioner

vs.

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

2.The Chief Educational Officer,
Virudhunagar.

3.The District Educational Officer,
Virudhunagar.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to regularize the service of the petitioner from the period of 17.11.2011 to 26.01.2016 with all consequential monetary benefits in the light of the observation made in W.P(MD)No.13830 of 2011, dated 02.08.2012.

For Petitioner : Mr.K.K.Kannan

For Respondents : Mr.N.Shanmuga Selvam
Additional Government Pleader

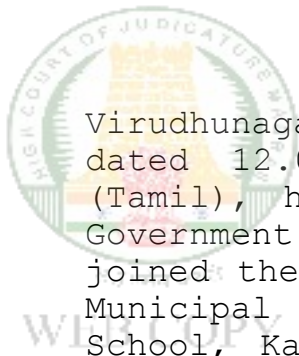
ORDER

This Writ Petition is filed seeking for a Writ of Mandamus, directing the first respondent to regularize the service of the petitioner for the period from 17.11.2011 to 26.01.2016 with all consequential monetary benefits in the light of the observation made in W.P(MD)No.13830 of 2011, dated 02.08.2012.

2.Mr.N.Shanmuga Selvam, learned Additional Government Pleader accepts notice on behalf of the respondents.

3.By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

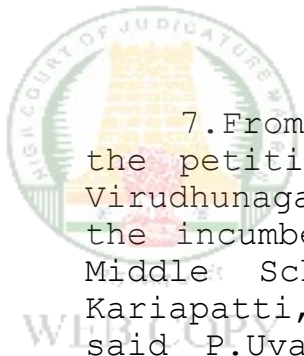
4.According to the petitioner, she was appointed as a Secondary Grade Teacher in Virudhunagar District and joined service on 12.06.1991. While she was working in A.S.P.C.C Municipal Middle School, Virudhunagar, during the year 2011-2012, the said School was upgraded as High School. As per the Rules and on seniority, the petitioner was transferred to S.M.G. Municipal Middle School,



Virudhunagar, as B.T Assistant (Tamil), by proceedings of the DEEO, dated 12.09.2011. Since the petitioner being a B.T Assistant (Tamil), her transfer to S.M.G.Municipal Middle School is against Government Order, where there will be three Tamil Teachers, if she joined there. Further, one P.Uvaneswari was transferred from S.M.G Municipal Middle School to Veppankulam Panchayat Union Middle School, Kariapatti, by proceedings of the DEEO, dated 19.09.2011. Challenging the transfer order, the said P.Uvaneswari, filed a Writ Petition in W.P(MD)No.11813 of 2011 and this Court by order, dated 13.10.2011, granted an order of interim stay. In view of the interim order passed in the said Writ Petition, the petitioner could not join duty in the said School. Hence, she sent a representation to the Joint Director of Elementary Education. Subsequently, the DEEO, Virudhunagar, passed an order, dated 17.11.2011, transferring the petitioner to M.M.M.School, Virudhunagar as B.T Assistant (Tamil) and transferred one R.Santhi B.T Assistant (Tamil), who was working in the said School, to ASPCC Primary School, Virudhunagar as Secondary Grade Teacher. Challenging the said transfer order, the said R.Santhi filed a Writ Petition in W.P(MD)No.13830 of 2011 and this Court by order, dated 02.12.2011, granted an order of status quo. In view of the interim order granted by this Court, the petitioner could not join duty in M.M.M School, Virudhunagar and the petitioner was the third respondent in W.P(MD)No.13830 of 2011. Finally, on 02.08.2012, the said W.P(MD)No.13830 of 2011 was disposed of directing the respondents 1, 2 and 4 therein to post the petitioner, who was the third respondent in W.P(MD)No.13830 of 2011, as B.T Assistant (Tamil) forthwith in the Municipal Middle School at Ramamoorthy Road, Virudhunagar. Aggrieved over the same, the petitioner filed a Writ Appeal in W.A(MD)No.1339 of 2013 on the file of this Court, which was dismissed on 01.04.2015. After the dismissal of the Writ Appeal, the petitioner was given employment on 27.01.2016. According to the petitioner, non-employment period from 17.11.2011 to 26.01.2016 was not due to the fault of the petitioner, but it is only due to the mismanagement of the respondents. Hence, she gave a representation to the respondents on 16.10.2020 to regularize her service from 17.11.2011 to 26.01.2016. Since no order has been passed so far, the petitioner has come out with the present Writ Petition.

5.The learned Additional Government Pleader appearing for the respondents submitted that since the Writ Appeal filed by the petitioner was dismissed on 01.04.2015, she is not entitled to get the relief sought for in the Writ Petition and prayed for dismissal of the Writ Petition.

6.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.



7.From the materials available on record, it is seen that when the petitioner was transferred to S.M.G Municipal Middle School, Virudhunagar, from A.S.P.C.C Municipal Middle School, Virudhunagar, the incumbent P.Uvaneswari, who was transferred from SMG Municipal Middle School to Veppankulam Panchayat Union Middle School, Kariapatti, filed a Writ Petition in W.P(MD)No.11813 of 2011 and the said P.Uvaneswari continued in the said School in view of the interim stay granted by this Court. In view of the same, the petitioner, after being relieved, could not be able to join in the transferred School. Subsequently, the petitioner was transferred to M.M.M School, Virudhunagar as B.T Assistant (Tamil) by transferring a Teacher one R.Santhi, from M.M.M School, Virudhunagar to ASPCC Primary School, Virudhunagar. Challenging the said transfer order, the said R.Santhi filed a Writ Petition in W.P(MD)No.13830 of 2011 on the file of this Court and obtained an order of status quo on 13.10.2011. Subsequently, the said W.P(MD)No.13830 of 2011 was disposed of on 02.08.2012. While disposing of the said Writ Petition, this Court observed as follows:-

"22.In the circumstances, the only way to amicably solve the issue without affecting any party is to direct the educational authorities to post the third respondent as B.T Assistant (Tamil) forthwith at Municipal Middle School at Ramamoorthy Road, Virudhunagar. In fact, on 25.07.2012, this Court passed an order that the Secondary Grade vacancy in the Middle School at Ramamoorthy Road should not be filled up pending disposal of this Writ Petition. Further, the educational authorities are responsible for the aforesaid chaotic situation and therefore, the educational authorities are directed to consider sympathetically with regard to the regularization of the service of the leave period of the third respondent who has been swinging from pillar to post and she has not been allotted any place in the above said circumstances. Further, a direction is issued to the respondents 1, 2 and 4 to post the third respondent as B.T Assistant (Tamil) forthwith in the Municipal Middle School at Ramamoorthy Road, Virudhunagar in view of the Government Orders referred to above."

8.In view of the above order passed by this Court in the Writ Petition, the respondents are directed to consider the representation of the petitioner, dated 16.10.2020, with regard to regularization of the service of the petitioner for the period from 17.11.2011 to 26.01.2016 with all consequential monetary benefits and pass appropriate orders on merits and in accordance with law, in the light of the order made in W.P(MD)No.13830 of 2011, dated 02.08.2012, within a period of eight weeks from the date of receipt of a copy of this order.



9. With the above direction, the Writ Petition is disposed of.
No costs.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

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

2. The Chief Educational Officer,
Virudhunagar.

3. The District Educational Officer,
Virudhunagar.

+1 CC to M/s.K.K.KANNAN, Advocate (SR-15877[F] dated 15/04/2021)

+1 CC to M/s.SPL GP (SR-15995[F] dated 16/04/2021)

W.P(MD)No.7814 of 2021

15.04.2021

RK (28.04.2021) 4P 6C