



W.P.No.17309 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 19.12.2022

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.No.17309 of 2022

A.Ambika

..Petitioner

Vs

1.The Director of Elementary Education,

College Road, Chennai-600 006.

2.The District Elementary Educational Officer,

Madurai District, Madurai

..Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of certiorarified Mandamus, calling for the records of the 1st respondent issued in Na.Ka.No.29554/G2/2011 dated 27.02.2012 and quash the same and issue a consequential direction to the respondents to regularise the services of the petitioner for a period from 01.06.2005 to 03.10.2009 as the Headmistress of the Hindu Aided Primary School, Chinnareddypatti, T.Kallupatti, Madurai District and add the same to the regular services of the Headmaster, Primary School, starts from



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04.10.2009 for the purpose of pay and allowance including pensionary benefits and to grant arrears of pay and other consequential benefits.

For Petitioner : Mr.R.Saseetharan

For Respondents :Mr.S.Mythreye Chandru, A.G.P.

ORDER

The petitioner was working as Secondary Grade Teacher in T.Kallupatti, Madurai District. The said school was under the Management of the Educational Authorities for a period from 01.01.2002 to 10.03.2009, due to the fact that the School Committee could not be formed and Secretary of the School Committee could not be elected due to the internal dispute.

2. On 31.05.2005 due to the retirement of R.Alagammal, Headmaster of the School, a vacancy arose and the petitioner who is the senior most teacher was taken charge of Headmaster post vide proceedings dated 31.05.2005 of the Assistant Elementary Educational Officer, T.Kallupatti.

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The petitioner was functioning as incharge Headmaster from 01.06.2005 onwards.

3. By order dated 23.03.2009, the District Elementary educational officer, Madurai, has approved a Educational Agency School Committee. The School Committee convened a meeting on 01.10.2009 and resolved to promote the petitioner as headmistress of the school. The secretary of the school by order dated 04.10.2009 had issued an order of promotion in favour of the petitioner and petitioner joined as headmistress of the school on 05.10.2009 and continued to workcd in the said school in the same post.

4. By order dated 22.01.2010, the District Elementary Educational Officer, Madurai, has approved the said promotion and granted scale of pay to the post of headmistress from 05.10.2009.

5. The petitioner submitted her representations dated 08.06.2010 and 20.07.2010 to the authorities for regularising the period from 01.06.2005 to



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04.10.2009. The petitioner also approached this court by filing W.P.No.15219/2011 for a direction to the authorities to consider the said representations. This court by order dated 16.08.2011 directed the 1st respondent therein to consider the petitioner's representation dated 20.07.2010 in the light of W.A.No.1459/2004 dated 01.08.2007 and pass orders.

6. The 1st respondent passed the impugned order dated 27.02.2012 rejecting the representation of the petitioner for regularising the period during which period she was holding the post of incharge headmaster, holding that the assignment of incharge as headmistress order was not passed by any of the authorities. Challenging the said impugned order, this writ petition is filed before this court.

7. Heard both sides.

8. The reliance made by the learned counsel for the petitioner on the



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judgment passed in W.A.No.1459 of 2004 dated 01.08.2007, is squarely applicable to the facts of the present case. In paragraph 4 of the said judgment, it is pointed out by a Division Bench of this court as under:-

"as per sub-rule 3 of Rule 15, in a regular vacancy, a fully qualified candidate shall be appointed only on a regular basis. However, in a temporary vacancy, i.e. leave vacancy, deputation for training or suspension of the teacher's certificate, a teacher or other person may be appointed for a specified period. In such cases, the agreement to be executed shall be in form VII-B."

9. In the case on hand, the petitioner has worked in the post of Headmaster (incharge) in the regular vacancy who is having full qualification to the said post and it was not temporary vacancy but a regular vacancy arose due to retirement of Alagammal who held the post of headmaster in the said school. Further, the petitioner was given promotion by the School Secretary and thereafter the same was approved by the 2nd respondent and she has been granted scale of pay for the post of Headmaster of the school. In such circumstances, the denial of service benefits during



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the said interregnum period i.e. 01.06.2005 to 03.10.2009 is not correct.

Therefore, the said impugned order dated 27.02.2012 is liable to be set aside. Accordingly, the same is set aside.

10. In the result, the writ petition is allowed. The 1st respondent is directed to pass necessary orders regularising the service of the petitioner for a period from 01.06.2005 to 03.10.2009 as the headmistress and add the same to the regular services of the the headmaster, primary school, Chinnareddypatti, T.Kallupatti, Madurai District and grant her arrears of pay and consequential benefits. The said exercise shall be carried out within a period of eight weeks from the date of receipt of a copy of this order. No costs.

19.12.2022

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To

- 1.The Director of Elementary Education,
College Road, Chennai-600 006.
- 2.The District Elementary Educational Officer,
Madurai District, Madurai



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J.NISHA BANU, J.,

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