



WP(MD)No.2051 of 2022 and WMP(MD)No.1763 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2022

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THE HON'BLE MR.JUSTICE R.MAHADEVAN

WP(MD)No.2051 of 2022
and
WMP(MD)No.1763 of 2022

Vijila Packiavathy

... Petitioner

Vs.

1. The Director of Elementary Education
College Road,
Chennai – 600 006.
2. The Chief Educational Officer,
Tenkasi District, Tenkasi.
3. The District Educational Officer,
Tenkasi District, Tenkasi.
4. The District Educational Officer,
Sankarankovil, Tenkasi District.
5. The Block Educational Officer,
Tenkasi Range, Tenkasi District.
6. The Block Educational Officer,
Alangulam Range, Alagulam,
Tenkasi District.
7. The Hon'ble Administrators



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Administrators of Diocesan Council
of Diocese Tirunelveli and Tirunelveli
Dioceses Trust Association (TDTA)
No.1680/8, North High Ground Road
St. John's College Hostel Campus,
Palayamkottai – 627 002,
Tirunelveli District.

8. The Manager,
TDTA Primary & Middle Schools,
Tirunelveli Diocesan Trust Association (TDTA)
Diocesan Office, Palayamkottai,
Tirunelveli District – 627 002.
9. The Correspondent,
TDTA Middle School,
Kakaiyanoor, Tankasi District.
10. The Correspondent,
TDTA Primary School,
Tenkasi, Tenkasi District.
11. The Correspondent,
TDTA Primary Schools,
Reddiarpatti Pastorate
Venkateswarapuram,
Alangulam, Tenkasi District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of Mandamus directing the third
respondent to sanction and disburse forthwith the arrears of salary and
allowances to the petitioner in the cadre of Primary School Headmaster
for the period from 22.07.2017 to 03.10.2019 with continuity of service
and attendant benefits.



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For Petitioner : M/s. H. Mary Sowmi Rexi
for M/s.Isaac Chambers
For R1 to R6 : Mr.S.Shaji Bino, Spl.GP
For R7 : Mr.Thangasivan
For R8 to R11 : Mr.P.P.Alwin Balan

ORDER

The prayer made in this writ petition is to issue a writ of mandamus directing the third respondent to sanction and disburse forthwith the arrears of salary and allowances payable to the petitioner in the cadre of Primary School Headmaster for the period from 22.07.2017 to 03.10.2019 with continuity of service and attendant benefits.

2.The case put forth by the petitioner in the writ petition is as follows:

2.1. Originally, the petitioner was appointed as Secondary Grade Teacher on 03.08.1992 in TDTA Rajam Primary School, Surandai, Tirunelveli District. She was promoted as Headmistress of Primary School on 02.06.2016 and transferred to the ninth respondent school viz., TDTA Middle School, Kaakaiyanoor, Tenkasi District. Thereafter, she was further promoted as Middle School Headmistress and posted in STC Branch Middle School, Ambasamuthiram, Tirunelveli District on



13.07.2021 and she has been continuing in the said post, till date.

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2.2. In the year 2017, due to change in the management, various transfers and new appointments were made. At that time, the 8th respondent transferred the petitioner from the 9th respondent school to the tenth respondent school viz., TDTA Primary School at Tenkasi, by order dated 21.07.2017 and the ninth respondent school also relieved her on the very same day evening and made entry in the service register to that effect and that, the petitioner also joined the tenth respondent school on 22.07.2017. Similarly, one Poorna Jansi Rani, Headmistress of TDTA Primary school was transferred to the ninth respondent school, in the place of the petitioner, and she also joined there on 22.07.2017.

2.3. While so, the petitioner came to understand that prior to her transfer to the tenth respondent school, one V.Suganthi Chandrakantham serving as Headmistress in the said school, was transferred to the eleventh respondent school viz., TDTA Primary School, Reddiarpatti, Venkateswarapuram on 21.07.2017, but she has not joined the transferred place and she preferred WP(MD)No.14741 of 2017 challenging the said transfer and obtained an order of *status quo*. Pursuant to the said order, she has not been relieved from the post and she has been receiving salary, whereas the transfer of the petitioner to the



tenth respondent school, was not approved and she was not paid any salary though she was discharging her duties as Headmistress of the tenth respondent school.

2.4. When the things stood thus, this court by order dated 05.08.2019 in WP(MD)No.21134 of 2017 etc. batch, appointed the Hon'ble Mr. Justice N.Paul Vasanthakumar, Chief Justice of Jammu & Kashmir (Retd), and the Hon'ble Mr. Justice P.Jyothimani, High court of Madras (Retd) as administrators for Tirunelveli Diocese, who are empowered to deal with all complaints and grievances of all the employees of the institutions run by Tirunelveli diocese. The said order was also affirmed by a judgment dated 25.02.2020 passed by the Division Bench of this court in WA.(MD)No.878/2019 etc. batch.

2.5. Accordingly, the learned Administrators considered the cases of the petitioner and V.Suganthi Chandra Kantham and to give quietus to the issue, directed the 8th respondent to transfer the petitioner to the eleventh respondent school on 04.10.2019 and retained V.Suganthi ChandraKantham in the tenth respondent school. Pursuant to the same, the petitioner joined the eleventh respondent school and continue to serve in the said post from 04.10.2019. Further, by order dated 09.10.2019, the learned Administrators, directed the respondent



authorities to release salary to the petitioner from 22.07.2017 to 03.10.2019, treating the disputed period as deemed to have served in the ninth respondent school, without any break. Pursuant to the said order, the fifth respondent relieved the petitioner from the ninth respondent school with effect from 21.07.2017. Thereafter, the eleventh respondent submitted necessary proposal to the fourth respondent for approval of transfer and arrears of salary payable to the petitioner. However, the fourth respondent approved the transfer, but rejected the proposal for arrears of salary, by stating that the 8th respondent is responsible for payment of salary for the period prior to 04.10.2019. The said order of the fourth respondent was acceded by the sixth respondent and disbursed the salary to the petitioner from 04.10.2019. Feeling aggrieved, the petitioner approached the eighth respondent and made a request for arrears of salary, consequent to which, the eighth respondent made a representation dated 05.02.2021 to the third respondent, requesting to release the arrears of salary payable to the petitioner for the period from 22.07.2017 to 03.10.2019, but the same is pending without any action. Therefore, this writ petition.

3. Upon notice, the third respondent filed a detailed counter affidavit, stating *inter alia* that one V.Suganthi Chandrakantham,



Headmaster of TDTA Primary School, Tenkasi challenged her transfer order dated 21.07.2017 to TDTA Primary School, Reddiarpatti, Venkateswarapuram by filing WP(MD)No.14741 of 2017 and obtained an order of status quo on 08.08.2017 and hence, she was not relieved from TDTA Primary School, Tenkasi and she was also paid salary from the government funds from 22.07.2017, as a result of which, the joining of the petitioner as Headmistress in TDTA Primary School, Tenkasi on 22.07.2017 as per the transfer order dated 21.07.2017 passed by the eighth respondent, was not approved by the respondent authorities. By proceedings in O.Mu.No.1646/A1/2020 dated 28.10.2020, the fourth respondent has approved the transfer of the petitioner to TDTA Primary School, Reddiarpatti as Headmaster from 04.10.2019 with specific condition that the Management shall take responsibility to pay salary to the petitioner prior to 04.10.2019 from its funds. Thus, according to the respondent authorities, there is no provision to pay salary for two persons for the same period in one post and hence, the writ petition is liable to be dismissed.

4.The learned counsel for the petitioner submitted that the petitioner has been continuously working in the transferred places



without any break, but the respondent authorities did not pay arrears of salary for the period from 22.07.2017 to 03.10.2019. The learned counsel further submitted that by order dated 09.10.2019, the learned Administrators, who were appointed by the order of this court dated 05.08.2019 in WP(MD)No.21134 of 2017 etc. batch, as affirmed by the Division Bench in WA.No.848/2020 etc, have held that the petitioner is deemed to have continued in the ninth respondent school viz., TDTA Middle School, Kakkayanoor without any break and ultimately, directed the respondent authorities to release arrears of salary from 22.07.2017. The relevant portion of the said order is quoted below for ready reference:

"In view of the above said position, it is made clear that in order to quietus to the dispute, that Mrs.Vijila Packiavathy shall be deemed to continue in the TDTA Middle School, Kakkayanoor without any break and her salary for the entire period from 22.07.2017 onwards to be released. Mrs.V.Suganthi Chandra Kantham is deemed to have continued in TDTA Primary School, Tenkasi by virtue of the order of Status Quo by the High Court dated 08.08.2017, is also entitled for continuance of the service from the said date and payment of salary. The Educational Authorities of the regions concerned viz., District Educational Officer, Tenkasi, Block Education Officer, Alankulam Range are requested to approve the said postings and release the salary along with arrears to both the above said persons on submission of the claim expeditiously within a period of 8 weeks."

Pursuant to the aforesaid order, the fifth respondent relieved the petitioner from the ninth respondent school, so as to enable to join the eleventh respondent school. Though the fourth respondent approved the



said transfer order, erroneously refused to pay arrears of salary from 22.07.2017 to 03.10.2019 by stating that only the 8th respondent management is responsible for the payment of salary to the petitioner prior to 04.10.2019 and the same was also affirmed by the sixth respondent. The order so passed by the respondent authorities is arbitrary, illegal and contrary to law, when there was no fault on the part of the petitioner herein. It is also submitted that though the eighth respondent submitted a representation dated 05.02.2021 to the third respondent requesting to release arrears of the petitioner's salary during the disputed period, the same has not been considered, till date. Therefore, the learned counsel prayed for appropriate direction to the respondent authorities to consider the said representation made by the eighth respondent in the light of the order passed by the learned Administrators dated 09.10.2019.

5. On the other hand, the learned Special Government Pleader appearing for the respondent authorities fairly submitted that the respondent authorities would consider the representation of the eighth respondent and pass orders, on merits and in accordance with law, within a time to be stipulated by this court.



6.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this court without expressing any opinion on the merits of the case, directs the respondent authorities to consider the representation of the petitioner dated 05.02.2021 with respect of arrears of salary payable to the petitioner for the period from 22.07.2017 to 03.10.2019 and pass appropriate orders in the light of the order of the learned Administrators dated 09.10.2019. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

7.Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

16.12.2022

Index : Yes/No

Internet : Yes/No

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To

1. The Director of Elementary Education College Road,
Chennai – 600 006.
2. The Chief Educational Officer,



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Tenkasi District, Tenkasi.

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R.MAHADEVAN, J.

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