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W.P.(MD)NO.12177 OF 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 07.11.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD)No.12177 of 2022 and**  
**W.M.P.(MD)No.8661 of 2022**

R.Jino Robert,  
Physical Education Teacher,  
Arunachalam Higher Secondary School,  
Thiruvattar – 629 177,  
Kanyakumari District.

... Petitioner

Vs.

1. The State of Tamil Nadu,  
Rep. 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,  
Thiruvattar, Kanyakumari District.
5. The Correspondent,  
Arunachalam Higher Secondary School,  
Thiruvattar – 629 177,  
Kanyakumari District.

... Respondents

**Prayer:** Writ petition is filed under Article 226 of the  
Constitution of India, to issue a Writ of Certiorarified



Mandamus, calling for the records relating to the impugned proceeding issued by the 3<sup>rd</sup> respondent Chief Educational Officer in Na.Ka.No.2109/ e2/2020 dated 14.12.2021 quash the same, further direct the 3<sup>rd</sup> respondent Chief Educational Officer herein to approve forthwith the appointment of petitioner as Physical Education Teacher in the 5<sup>th</sup> respondent school namely, Arunachalam Higher Secondary School, Thiruvattar from the date of his appointment i.e., 12.07.2018 and disburse the grant-in-aid towards his salary and allowance with effect from the said date.

For Petitioner : Ms.A.Amala

For R-1 to R-4 : Mr.S.Shaji Bino,  
Special Government Pleader.

For R-5 : Mr.S.Vashik Ali,  
for Mr.R.Murugan.

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### **ORDER**

Heard the learned counsel on either side.

2. The petitioner was appointed as Physical Education Teacher with effect from 12.07.2018 following the retirement of the earlier incumbent on 30.06.2018. The management



submitted a proposal for approval of the said appointment. In view of the subsequent fall in the students' strength, the department declined to grant approval and the same is put to challenge in this writ petition.

2. The issue involved in the present case is no longer *res integra*. The Hon'ble Division Bench vide Order dated **15.07.2022** in ***W.A.(MD)No.604 of 2022 ( The Director of Elementary Education V. The Secretary, Thiagaraja Colony Primary School, Pasumalai, Madurai )*** had held as follows:-

“14. The issue that arises for consideration is what is the crucial date for deciding the surplus post in a particular School for approval of any appointment. In the present case, admittedly, the appointment order has been issued on 31.03.2010 falling in the academic year 2009-2010. The proposal for approval has been sent by the School to the Educational Authorities on 21.06.2010 falling under the next academic year 2010-2011. As rightly held by the learned



Single Judge, any approval for appointment relates back to the date of original appointment. Status of the appointee has to be considered only on the date of appointment and not on the date on which the approval is being sought for. That apart, the crucial cut off date for fixing the students strength and to decide the surplus teacher is the month of August of every year. In the present case, the approval for appointment of Tamilarasi has reached the Educational Authorities on 21.06.2010 much before August 2010. That apart, the staff fixation order for the academic year 2010-2011 has been passed only on 13.12.2010 i.e. 6 months after proposal was received by the Educational Authorities. Therefore, it is clear that the authorities have kept the approval application pending for nearly six months and thereafter, attempted to hold that the petitioner School is entitled to only 4 Secondary Grade Teachers. ”



3. When the petitioner was appointed, the requisite students strength was very much available. Subsequently, the petitioner's post became surplus. The subsequent developments cannot be put against the writ petitioner.

4. I therefore direct the competent authority to approve the petitioner's appointment with effect from 12.07.2018 and disburse the grant-in-aid towards the writ petitioner's salary and other allowance forthwith, without any delay. It is open to the department to deploy the writ petitioner with post to any other needy institution. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

**07.11.2022**

Index : Yes / No

Internet : Yes/ No

PMU



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W.P.(MD)NO.12177 OF 2022

**G.R.SWAMINATHAN,J.**

PMU

**To:**

1. The 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,  
Thiruvattar, Kanyakumari District.

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