



WP(MD)No.12814 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **24.06.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.12814 of 2022

and

W.M.P(MD)Nos.9091 & 9092 of 2022

R.Alice Dhanaseeli

... Petitioner

/vs./

1.The Chief Educational Officer,
Office of Chief Educational Officer,
Dindigul.

2.The Head Master,
Government Higher Secondary School,
K.Dharmathupatti,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order bearing O.Mu.No.3965/A3/2022, dated 30.05.2022 passed by the first respondent and quash the same and consequently direct the respondents to grant re-employment to the petitioner till the end of academic year 2022-2023.

For Petitioner : Mr.T.Antony Arulraj

For Respondents : Mr.S.Shaji Bino
Special Government Pleader



WP(MD)No.12814 of 2022

WEB COPY

ORDER

The petitioner, who is employed as a PG Assistant in the second respondent School, is due for superannuation on 30.06.2022. By placing reliance on G.O.Ms.No.261, School Education [Pa.Ka.5(2)] Department, dated 20.12.2018, when the petitioner herein sought for re-employment, the same came to be rejected through the impugned order, dated 30.05.2022, by stating that the staff fixation and the consequential surplus teachers can be ascertained only on 01.08.2022 and in the absence of any such staff fixation, the petitioner's request cannot be considered.

2. The learned Special Government Pleader places reliance on the order of the Hon'ble Division Bench of this Court in the case of ***The Chief Educational Officer and others Vs. P.S.Rajavel Durai in W.A.(MD)Nos.107, 566, 583, 594, 933, 1177 and 1273 of 2020, dated 16.03.2021***, whereby, it has been held that the claim for re-employment by a teacher, who is at the verge of retirement, is not a matter of right and that re-employment is a fresh employment. It has also been held therein that the re-employment is a policy decision of the Government which the Courts will not interfere. The relevant portion of the order reads as follows:



WP(MD)No.12814 of 2022

WEB COPY

10. Much reliance has been made on the judgment of the Division Bench of this Court in **Reynold Jayasekaran Vs. Director of School Education [cited supra]**. In our considered view, the Division Bench of this Court has taken note of the earlier orders passed by this Court. As stated by us earlier, we are dealing with the case of policy decision made. The Government Order passed in G.O.(Ms)No.261, School Education (Pa.Ka.5(2)) Department, dated 20.12.2018, was not available at the relevant point of time before the learned Single Judge, who passed an order dated 06.02.2020, in W.P.No.2772 of 2020. The relevant clause governing has not been placed. The Government Order does not say that the question of surplus teachers will have to be reckoned within the same School. For example, in a Government School if surplus teachers are available, the other Government Schools cannot be allowed to indulge in re-employment without undertaking the process of re-deployment. Similarly, if an aided Private School is having number of institutions, a duty is imposed upon them to see to it that the surplus teachers available in the other Institutions are transferred to the Institution, in which, the teacher attains the age of superannuation during the academic year. It is for them to adopt anyone, but they cannot seek aid for both the posts. The same logic applies to the Government School teachers as well. After all, the Government is not expected to make payment for two teachers for imparting education for one set of Students."



WP(MD)No.12814 of 2022

3. The aforesaid extract itself is self-explanatory. Hence, when a decision is taken by the Government Department not to re-employ a teacher, who is at the verge of retirement, such a decision cannot be interfered with by this Court, particularly when a claim is made by placing reliance on G.O.Ms.No.261, School Education [Pa.Ka.5(2)] Department, dated 20.12.2018. In view of the decision of the Hon'ble Division Bench (extracted above), I do not find any reason to interfere with the impugned order.

4. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.06.2022

Index : Yes / No
Internet : Yes / No
btr/lm

To

- 1.The Chief Educational Officer,
Office of Chief Educational Officer,
Dindigul.
- 2.The Head Master,
Government Higher Secondary School,
K.Dharmathupatti,
Dindigul District.



WEB COPY



WP(MD)No.12814 of 2022

M.S.RAMESH, J.

btr/lm

Order made in
W.P.(MD)No.12814 of 2022

Dated:
24.06.2022