

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

DATED : 19.09.2022

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

W.P(MD)No.18684 of 2022

and

W.M.P.(MD)Nos.13587 and 13590 of 2022

S.Chandran

... 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,  
Tirunelveli,  
Tirunelveli District – 627 009.

4.The District Educational Officer,  
Vallioor, Tirunelveli District.

5.The Headmaster,  
Government High School,  
Radhapuram Taluk,  
Seelathikulam – 627 112,  
Tirunelveli District.

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 3rd respondent CEO in Na.Ka.No.4352/A2/2022 dated 11.8.2022 quash the same and further direct directing the 3rd respondent CEO herein to permit the petitioner to continue in service as BT Assistant (Social Science) under re-employment in the 5th respondent school till the end of the academic year 2022-2023 (ie. upto 31.05.2023) with all attendant benefits.

For Petitioner : Mr.K.Ragatheesh Kumar,  
For M/s.Isaac Chambers.

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

### **ORDER**

Heard the learned counsel on either side.

2.The writ petitioner was employed as B.T. Assistant (History) in the fifth respondent Government School. He reached the age of superannuation on 31.07.2022. The petitioner sought re-employment till the end of the academic year 2022 – 2023. The fifth respondent sent a proposal recommending the writ petitioner's case. By the impugned order dated 11.08.2022, the third respondent rejected the said proposal. Challenging the same, the present writ petition has been filed.

2.The learned counsel for the writ petitioner took me through the averments set out in the affidavit filed in support of the writ petition. He also placed reliance on catena of decisions, which have also been enclosed in a the compilation set. His basic contention is that the authorities are not justified in applying the conditions that are followed in the case of private aided institutions in the case of Government schools. Secondly, according to him, each Government school will have to be considered as an independent unit by itself. Thirdly, the authorities must see if there are any surplus teachers in that particular school. It is not enough that there are surplus teachers. There must be surplus teachers in the subject concerned. In any event, there cannot redeployment from private institutions to Government schools. He would also submit that in the neighbouring Tuticorin District, when a similar case arose, the jurisdictional Chief Educational Officer had issued proceedings granting re-employment. He called upon this Court to quash the order impugned in the writ petition and allow the writ petition as prayed for.

3.Per contra, the learned Special Government Pleader for the respondents submitted that the impugned order does not call for any interference.

4.I carefully considered the rival contentions and went through the materials on record. As rightly pointed out by the learned Special Government Pleader by placing reliance on the decision of the Hon'ble Division Bench rendered on 16.03.2021 in W.A.(MD)No.107 of 2020 etc, re-employment cannot be sought as a matter of right. The only question that calls for consideration is whether the third respondent had acted arbitrarily while denying the petitioner's request for re-employment. The respondents have categorically asserted that there are as many as eight surplus teachers in the District of Tirunelveli in the subject of Social Science itself and that one of them namely, Shaya Malarvizhi had been redeployed from St.Theresa's Higher Secondary School, Vadakankualm and posted in the vacancy that arose on account of the writ petitioner's retirement. A copy of the proceedings dated 12.09.2022 redeploying the said Shaya Malarvizhi in the fifth respondent school has been produced before me.

5.The issue as to whether the fifth respondent should be treated as single unit and whether the vacancy caused by the superannuation of a teacher can be redeployed by a surplus from private aided school are purely technical arguments. The fact remains that the petitioner had reached the age of superannuation and the employer and employee relationship had come to an

end. Even during the period of re-employment which will have to run till end of the academic year, the Government has to pay full salary to the re-employed teacher. When surplus teachers in the very same subject are available in the district, if the petitioner is re-employed that would definitely put the Government to needless financial burden. When the petitioner has no legal right as such to demand re-employment, redeploying a surplus teacher from another private aided institution cannot be said to be unreasonable. Looked at from any angle, the order rejecting the petitioner's request does not call for interference. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

**19.09.2022**

Index : Yes / No  
Internet : Yes/ No  
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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.

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

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- 3.The Chief Educational Officer,  
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