



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2022

CORAM

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P. (MD)No.12448 of 2014**

**and**

**M.P. (MD)Nos.2 to 5 of 2014**

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R.Thenmozhi

... Petitioner

VS

1. The Director Of School Education,  
DPI Campus, Chennai - 600 006.

2. The District Elementary Educational Officer,  
Virudhunagar District,  
Collector Office Campus,  
Virudhunagar.

3. The Secretary  
Hindu Dhevamar Primary School,  
28, Quad-E- Milad Street,  
Sivakasi, Virudhunagar District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records from the 3rd respondent relating to the Impugned Order of the third Respondent dated 25.07.2014 quash the same and consequently to direct the second and third respondents to give order of re-employment to the petitioner up to the end of this academic year 2014-2015 i.e., 31.05.2015 and also all consequential benefits.

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.V.Omprakash for R1 & R2  
Government Advocate (Civil side)  
Mr.A.V.Arun for R3

### **O R D E R**

This Writ Petition is filed to quash the impugned order dated 25.07.2014 and direct the respondents to give re-employment until the end of the Academic year i.e., 31.05.2015.

2. The petitioner was serving in the third respondent Private Aided Non-Minority School. The petitioner has attained superannuation on 31.07.2014. The petitioner is seeking re-employment for the academic year from 01.08.2014 to 31.05.2015 and the same was rejected through the impugned order stating that there



are four surplus Teachers in the said School as on 31.07.2014. Therefore, the School has declined to grant re-employment from 01.08.2014 to 31.05.2015.

3. The petitioner has filed another writ petition in W.P. (MD) No.258 of 2015 challenging a Charge Memo issued to the petitioner, vide Charge Memo, dated 21.12.2014 and the said writ petition was closed, vide order, dated 01.12.2020 stating that the re-employment period itself over and the petitioner was allowed to retire and all the terminal benefits, pensionary benefits are also settled.

4. The issue of re-employment was considered in several cases wherein it has been stated that if there is any surplus Teachers in the said School then the re-employment for the retiring Teacher cannot be granted. Subsequently Government has also issued G.O. Ms. No. 261 School Education 5(2) dated 20.12.2018, wherein it has been clearly stated that if there is any surplus Teacher in the School, re-employment cannot be granted. But the said G.O. is applicable from the date of issuance of the government order that too from the academic year 2019-2020. However, the Hon'ble Division in W.A. (MD) No. 910 / 2010 dated 15.12.2010 has held that if there is surplus teachers, then the government cannot be compelled to grant re-employment. Therefore this Court is of the considered opinion that the petitioner is not entitled to re-employment.

5. Hence, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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**Note:**

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

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2. The District Elementary Educational Officer,  
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RK(03/06/2022) 3P 4C