



W.A.(MD) No.1326 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2022

CORAM:

**THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE R.MAHADEVAN**

W.A.(MD) No.1326 of 2022

and

C.M.P.(MD) No.10349 of 2022

The District Elementary Educational Officer
Karur, Karur District
Now at
The District Educational Officer
Karur, Karur District

... Appellant

-vs-

J.Padmavathy

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 19.04.2022, passed in W.P.(MD) No.4214 of 2016, on the file of this Court.

For Appellant : Mr.J.Ashok
Additional Government Pleader



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J U D G M E N T

**[Judgment of the Court was made by
The Hon'ble ACTING CHIEF JUSTICE]**

The District Elementary Educational Officer, Karur, having been aggrieved by the order dated 19.04.2022, passed in W.P.(MD) No.4214 of 2016, by the learned Single Judge, allowing the writ petition filed by the respondent / writ petitioner with a cost of Rs.5,000/- payable by him, holding that the respondent / writ petitioner is entitled to the B.T.Assistant salary for the period from 09.05.2008 to 07.06.2009 and directing him to implement the order within a period of four weeks, has filed the present writ appeal.

2. Learned Additional Government Pleader, among other things, mainly attacked the impugned order on the ground that when the writ petitioner was not working for the period from 09.05.2008 to 07.06.2009, she is not entitled to the salary and therefore, the learned Single Judge ought not have directed salary to be paid to the writ petitioner for the said period.

3. On a cursory perusal of the records, we do not find any error or infirmity in the order passed by the learned Single Judge, for the simple reason that even in the counter affidavit filed by the appellant in the writ



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petition, he has clearly stated that the writ petitioner was promoted as B.T.Assistant (History) on 30.01.2008 in the Panchayat Union Middle School, Somoor, Karur District and she joined the said post on 01.02.2008. Thereafter, she made a request for transfer from Karur District to Trichy District, which is her native district. Since there was no vacancy in the post of B.T.Assistant (History) in Trichy District, her request for transfer was not considered. Thereafter, on 08.05.2008, the writ petitioner was demoted from the post of B.T.Assistant to the post of Secondary Grade Teacher. Having been aggrieved by the depromotion, which could be done only on the proven charges, the petitioner filed a writ petition in W.P.(MD) No.4633 of 2008 and this Court, by order dated 22.05.2008, finding that the impugned reversion order was passed without any justification, quashed the reversion order dated 08.05.2008 and allowed the said writ petition. The writ appeal in W.A.(MD) No.18 of 2011 preferred by the Education Department against the order dated 22.05.2008 passed in the said writ petition was also dismissed *vide* judgment dated 11.01.2011. It is seen that despite the dismissal of the writ appeal by this Court, the writ petitioner was allowed to remain idle. In such circumstances, the writ petitioner cannot be held responsible for the loss of salary and the writ appeal is therefore liable to be dismissed.



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4. In the result, the writ appeal fails and it is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

[T.R., A.C.J.] [R.M.D., J.]

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Index : Yes / No

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