

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**DATED: 06.09.2022****CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.P.(MD)No.12680 of 2018**

S.Shanmugapriya

... Petitioner

Vs.

1. The Secretary to Government,
Education Department,
State of Tamil Nadu,
St. Fort George,
Chennai – 9.
2. The Director of School Education,
College Road,
Chennai – 6.
3. The Additional Assistant Elementary Educational Officer,
Sankarankovil,
Tirunelveli District.
4. The Correspondent,
Saraswathi Elementary School,
Vaadikottai, Sankarankovil,
Tirunelveli District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in respect of the order passed by third respondent in A.Thi.Mu.No.780/A2/2017 dated 06.11.2017 and quash the same and consequently direct the respondents to approve the appointment of the petitioner from

29.04.2009 and further direct the respondents to disburse all service and monetary benefits.

For Petitioner : Mr.S.Chellapandian

For R-1 to R-3 : Mr.S.Saji Bino,
Special Government Pleader.

For R-4 : No appearance.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the official respondents.

2. The writ petitioner was appointed as a Secondary Grade teacher in the fourth respondent school. The case of the petitioner is that she was appointed in a sanctioned vacancy with effect from 29.04.2009. But the approval was granted only with effect from 01.06.2009. The petitioner sent a representation seeking approval of her appointment with effect from 29.04.2009. The petitioner's request was rejected by the impugned order. The rejection order is put to challenge in this writ petition.

3. The learned counsel appearing for the writ petitioner reiterated all the averments set out in the affidavit filed in support of this writ petition. His core contention is that when the petitioner was appointed to a sanctioned vacancy, the respondents ought to have approved the petitioner's appointment with effect from the original date of appointment. Merely because the month of May happens to be a summer holiday, in order to avoid the payment of salary for the said period, the competent authority has deliberately granted the approval with effect from 01.06.2009. The learned counsel submitted that the approach of the authority deserves to be deprecated. In the alternative, the learned counsel submitted that while the petitioner can even be denied the monetary benefit, he wanted the said period to be counted for the purpose of other service benefits.

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

5. I carefully considered the rival contentions and went through the materials on record.

6. The specific case of the writ petitioner is that she was appointed with effect from 29.04.2009 in a sanctioned vacancy. It is quite possible that the petitioner's contention is correct. But the conduct of the petitioner has to be taken note of. The petitioner has enclosed a copy of the approval order dated 12.06.2009 granting approval of her appointment. The said order states that the approval is given with effect from 01.06.2009. If the petitioner felt aggrieved, she ought to have questioned the same immediately thereafter. The petitioner did not do so. Instead she waited for full eight years to submit her representation. The petitioner's representation is dated 04.10.2017. In this case, the petitioner had not challenged the order granting approval. She had only challenged the order rejecting her representation. Since the petitioner has approached belatedly, there is no reason to concede her request. The reasons set out in the impugned order cannot be said to be incorrect. If the impugned order is set aside and this writ petition stands allowed, that cannot amount to re-writing

the terms of the order granting approval. When the petitioner had not challenged the approval order, interference in this writ petition does not arise. The order impugned in this writ petition is sustained. This writ petition stands dismissed. No costs.

06.09.2022

Index : Yes / No

Internet : Yes/ No

PMU

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G.R.SWAMINATHAN,J.

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