



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
RESERVED ON: 22.04.2022  
DELIVERED ON: 02.06.2022  
CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .Nos.15112, 22974 and 23878 of 2016  
and

W.M.P. (MD) .Nos.11142, 16451, 16452, 17211, 17212 of 2016 and  
4333 of 2018

**W.P. (MD) .No.15112 of 2016**

R.Dhana Amaravathi

... Petitioner

**Vs.**

- 1.The Director of School Education,  
College Road,  
Chennai - 600 006.
- 2.The Joint Director of Higher Secondary Education,  
College Road,  
Chennai - 600 006.
- 3.The Joint Director of Secondary Education,  
College Road,  
Chennai - 600 006.
- 4.The District Educational Officer,  
Sivagangai,  
Sivagangai District.
- 5.The Secretary,  
OVC Higher Secondary School,  
(Now under the Direct Control of District Educational Officer,  
Sivagangai),  
Manamadurai,  
Sivagangai District.

6.J.Kaveriappan

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to appoint the petitioner as PG Assistant (Economics) since she is fully qualified in all respects to the above said post by considering her representation dated 16.06.2016 and to direct the respondents to fix a time limit.



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W.P. (MD) .Nos.15112, 22974 and 23878 of 2016

For Petitioner : Mr.A.Thirumurthy  
for M/s.Victory Associates.  
For R-1 to R-5 : Mr.V.Omprakash  
Government Advocate (Civil Side)  
For R-6 : Mr.N.Sathish Babu

**W.P. (MD) .No.22974 of 2016**

R.Dhana Amaravathi

... Petitioner

**Vs.**

- 1.The Director of School Education,  
College Road,  
Chennai - 600 006.
- 2.The Joint Director of Higher Secondary Education,  
College Road,  
Chennai - 600 006.
- 3.The Joint Director of Secondary Education,  
College Road,  
Chennai - 600 006.
- 4.The District Educational Officer,  
Sivagangai,  
Sivagangai District.
- 5.The Secretary,  
OVC Higher Secondary School,  
(Now under the Direct Control of District Educational Officer,  
Sivagangai),  
Manamadurai,  
Sivagangai District.

6.J.Kaveriappan

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, by calling for the records of the then fifth respondent issued in Na.Ka.No.03/2015 dated 10.06.2015 (Appointment Order) appointing the sixth respondent as P.G. Assistant (Economics) and to quash the same.

For Petitioner : Mr.A.Thirumurthy  
for M/s.Victory Associates.



For R-1 to R-5 : Mr.V.Omprakash  
Government Advocate(Civil Side)

For R-6 : Mr.N.Sathish Babu

**W.P. (MD) .No.23878 of 2016**

J.Kaveriappan

... Petitioner

**Vs.**

1.The District Educational Officer,  
Sivagangai,  
Sivagangai District.

2.The Secretary,  
OVC Higher Secondary School,  
Manamadurai,  
Sivagangai District.

3.Dhana Amaravathy

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records from the first respondent in his proceedings in ந.க.எண்.304௮1/2016 dated 28.11.2016 and quash the same and consequently direct the first respondent to approve the promotion of the petitioner as PG Assistant (Economics) teacher in the second respondent school from the date of his promotion (i.e.) on 10.06.2015 with applicable monetary benefits and continuity of service by considering his representation dated 21.12.2015 and thus render justice.

For Petitioner : Mr.N. Sathish Babu

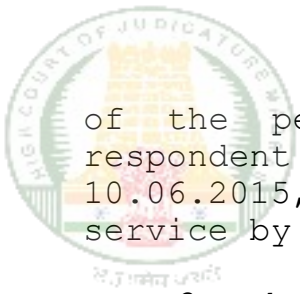
For R-1 and R-2 : Mr.V. Omprakash  
Government Advocate (Civil Side)

For R-3 : Mr.A.Thirumurthy  
for M/s. Victory Associates.

**COMMON ORDER**

Three Writ Petitions are filed and since there is a common issue in all the three writ petitions, the cases are taken up for hearing and a common order is passed.

2. The Writ Petition in W.P.(MD).No.23878 of 2016 is filed by one Mr.Kaveriappan to quash the impugned order dated 28.11.2016 and consequently to direct the first respondent to approve the promotion



of the petitioner as PG Assistant (Economics) in the second respondent School from the date of his promotion, i.e., on 10.06.2015, with applicable monetary benefits and continuity of service by considering the representation dated 21.12.2015.

3. The Writ Petition in W.P.(MD).No.15112 of 2016 is filed by one Mrs.R.Dhana Amaravathi for a Writ of Mandamus directing the respondents to appoint the petitioner as PG Assistant (Economics), since she is fully qualified in all aspects to the aforesaid post by considering the representation dated 16.06.2016.

4. The third Writ Petition in W.P.(MD).No.22974 of 2016 is filed by R.Dhana Amaravathi to quash the impugned order dated 10.06.2015 appointing the sixth respondent as PG Assistant (Economics).

5. The brief facts as stated in W.P.(MD).No.23878 of 2016 are that the petitioner, J. Kaveriappan, had completed M.A., B.Ed. and joined the service as BT Assistant on 21.04.2008 in the second respondent's school. A post of PG Assistant fell vacant in the said school on 31.05.2015. Since the petitioner, J.Kaveriappan, is eligible for the above said post, the second respondent promoted him as PG Assistant (Economics) on 10.06.2015 by invoking Section 15(4) of Tamil Nadu Private School (Regulations) Rules, 1974. Though the petitioner was promoted on 10.06.2015, the said promotion was not approved by the official respondent / the District Educational Officer. The petitioner approached the first and second respondents in this regard with a request to approve the post, so that the petitioner can draw the monthly salary from the month of June 2015 that is applicable to the PG Assistant post.

6. According to the petitioner, J.Kaveriappan, the above said PG Assistant (Economics) post is a sanctioned post and the promotion of the petitioner to the above said post is also in accordance with the rules and as per the decision of the School Committee and therefore, there is no impediment for the first respondent/the District Educational Officer to approve the promotion of the petitioner. Since the approval was not granted, the petitioner, J.Kaveriappan, has also filed a Writ Petition in W.P.(MD).No.1191 of 2016 praying to direct the first respondent/the District Educational Officer to approve his promotion as PG Assistant (Economics) by considering the representation dated 21.12.2015 and the said Writ Petition was disposed of on 20.01.2016 with a direction to the first respondent/the District Educational Officer to pass orders on the said representation within a period of eight weeks. Even thereafter, the respondents have not granted any approval to the appointment of the petitioner.

7. In these circumstances, the third respondent, R.Dhana Amaravathi, who is working as a BT Assistant in the second respondent's school had filed a Writ Petition in W.P.(MD).No.15112



of 2016 praying to direct the respondents to appoint her as PG Assistant (Economics), since she is fully qualified in all aspects to the above said post by considering her representation dated 16.06.2016.

8. The contention of the petitioner, J.Kaveriappan, is that he is fully qualified for the above said post and the School Committee has appointed the petitioner. However, the first respondent vide letter dated 11.08.2016 called upon the petitioner for explanation in respect of his appointment and eligibility. The petitioner has also submitted his reply. Even then, the petitioner's appointment as PG Assistant (Economics) was not approved for the reason that the original resolution passed by the School Committee was not enclosed. The said reason is nothing but flimsy, since the appointment of one other teacher, namely, Mrs.M.Meenakshi, who has been appointed as PG Assistant (Commerce) in the second respondent's school based on the resolution dated 09.06.2015, has been approved by the first respondent.

9. The petitioner/J.Kaveriappan contended that on 15.11.2016, this Court had passed an order in W.P.(MD).No.15112 of 2016 directing the first respondent herein/the District Educational Officer to consider the representation/objection of the third respondent herein/R.Dhana Amaravathi dated 16.06.2016 before granting approval. However, before this order was passed, the first respondent has already considered and passed an order on the representation given by the third respondent dated 16.06.2016 by proceedings dated 10.08.2016. But, without perusing his own proceedings dated 10.08.2016, now the first respondent has passed an order dated 28.11.2016 stating that so far, the original resolution of the second respondent School Committee was not produced before him and the above said original resolution should be produced within a period of one (1) week, otherwise the petitioner's appointment would be rejected. The contention of the first respondent is unsustainable as there is no relevance in the above said order. Aggrieved over the said order, the petitioner/J.Kaveriappan has filed this Writ Petition.

10. The third respondent in W.P.(MD).No.23878 of 2016 has filed two Writ Petitions, namely, W.P.(MD).Nos.15112 and 22974 of 2016 with a prayer of Mandamus in one Writ Petition to grant promotion and Certiorari in another Writ Petition to quash the promotion granted to the said J.Kaveriappan. As far as the Writ Petition in W.P.(MD).No.15112 of 2016 is concerned, the petitioner, R.Dhana Amaravathi, has filed the Writ Petition for a Mandamus to direct the respondents to appoint the petitioner as PG Assistant (Economics) by considering her representation dated 16.06.2016. This Writ Petition has become infructuous, since already the respondents have appointed the said J.Kaveriappan in the vacant post. Therefore, the Writ Petition in W.P.(MD). No.15112 of 2016 is dismissed as

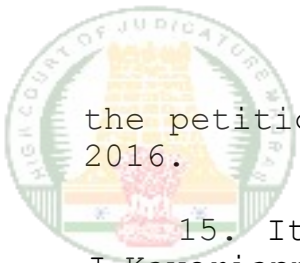


11. The said R.Dhana Amaravathi has contested the promotion granted to the said J.Kaveriappan in W.P.(MD).No.22974 of 2016.

12. The brief facts of the case as stated by R.Dhana Amaravathi are that she had completed M.A., M.Ed., M.Phil., M.A. (Economics) and she was appointed as Secondary Grade Teacher on 04.11.1987 through District Employment Exchange and the petitioner's service was regularized and probation was declared. The petitioner, R.Dhana Amaravathi, was promoted as BT Assistant on 01.06.2010 and the next avenue of promotion is PG Assistant (Economics). On 31.05.2015, a post of PG Assistant (Economics) fell vacant in the fifth respondent Management School because of the retirement of one Mr.S.Chinnadurai on 01.06.2015. At that time, the petitioner/R.Dhana Amaravathi was the only eligible candidate to be promoted to the said post. The fifth respondent's school convened a School Committee meeting to appoint an eligible person to the above said post. The School Committee meeting was held on 09.06.2015 and there was no consensus in selecting the PG Assistant. Among the 14 persons in the School Committee, one Mr.S.KR.S.KR.AR.VR.Chinthamani Chettiar (senior member) and one Mr.P.Marirajan, Head Master (official member) did not agree to appoint the sixth respondent, J.Kaveriappan, since he was not fully qualified. However, other members of the fifth respondent school wantonly appointed the sixth respondent temporarily as PG Assistant (Economics) vide proceedings dated 10.06.2015 subject to the condition of approval by the official respondents. Since there was some management dispute, the administration of the fifth respondent school was brought under the direct control of the fourth respondent as directed by the first respondent and now the same is under the direct control of the fourth respondent, the District Educational Officer, Sivagangai.

13. According to the petitioner/R.Dhana Amaravathi, the appointment of the sixth respondent/J.Kaveriappan is temporary in nature and his appointment could not be confirmed and the matter is pending. Though the sixth respondent is acting as in charge of PG Assistant (Economics), he could not fulfill the conditions mentioned in the appointment order dated 10.06.2015 till date and he is being paid only BT Assistant salary. The petitioner, R.Dhana Amaravathi was appointed in the year 1987 and promoted as BT Assistant in the year 2010 and according to her, she is the only eligible candidate to be promoted as PG Assistant (Economics).

14. The contention of the petitioner/R.Dhana Amaravathi is that she has studied M.A. Economics after getting prior permission from the fourth respondent/the District Educational Officer, whereas the sixth respondent/J.Kaveriappan has studied M.A. Economics without getting prior permission from the fourth respondent and hence, he is not eligible to be appointed. Since the said J.Kaveriappan is trying to get ratification from the official respondents to legalize his appointment as PG Assistant (Economics) and the same is illegal,

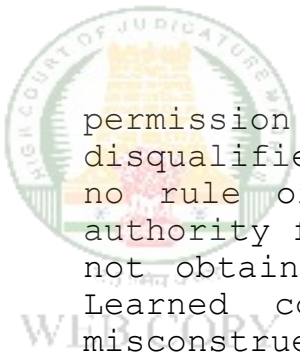


the petitioner has filed this Writ Petition in W.P.(MD).No.22974 of 2016.

15. It is also the contention of the petitioner that the said J.Kaveriappan has filed a Writ Petition in W.P.(MD).No.1191 of 2016 by suppressing the fact that he has studied M.A. Economics by not getting prior approval from the official respondents. If a teacher is claiming any incentive increment for higher education, then the teacher should get prior permission from the educational authority as well as from the management before pursuing the said course. As per the proceedings of the Directorate of School Education in Na.Ka.No.23458/A1/2014 dated 06.08.2014 as well as the proceedings of the Joint Director in Na.Ka.No.55416/D1/E1/2009 dated 27.07.2009, for the grant of incentive increment, a person who is working should obtain prior permission for studying higher qualification. While being so, the sixth respondent / J.Kaveriappan, without getting prior permission from the official respondents, has studied M.A. Economics and he is trying to get ratification for studying M.A. Economics and consequently, approval for his promotion which is against the rules and regulations. Even for the incentive increment, the sixth respondent/J.Kaveriappan is not eligible, as he has not obtained any prior permission for acquiring higher education. Therefore, the sixth respondent/J.Kaveriappan should be declared as disqualified from getting promotion, since he has obtained his higher education without getting prior permission. Therefore, the petitioner/R.Dhana Amaravathi has challenged the promotion order dated 10.06.2015 and prayed to quash the said order.

16. Heard Mr.A.Thirumurthy, Mr.N.Sathish Babu, learned counsels for the petitioners and Mr.V.Omprakash, learned Government Advocate for the official respondents.

17. The issue before this Court is whether the said J.Kaveriappan is eligible to be promoted as PG Assistant (Economics) and the only objection is that the said J.Kaveriappan has acquired the qualification of M.A. Economics without getting prior permission from the higher officials. The teachers who are working in private aided schools, if they want any incentive increment for higher studies, they should get prior permission from the Department, who is the approving authority as per G.O.Ms.No.944, Education (D2) Department dated 29.07.1989. In the said Government Order, it has been stated that if the teacher is inclined to get any higher qualification, then the teacher should obtain prior permission from the Director of School Education or any other authority appointed by the Government. Admittedly, in the present case, the said J.Kaveriappan has not obtained any prior permission for acquiring higher education. If that is so, the said J.Kaveriappan is not entitled to any incentive increment for higher education. The same analogy cannot be applied for promoting a person who is possessing higher qualification. The only objection raised by the learned counsel appearing for R.Dhana Amaravathi is that since prior



permission is not obtained by the said J.Kaveriappan, he is disqualified to be promoted as PG Assistant (Economics). There is no rule or regulation or any Government Order which debars any authority from appointing/promoting a person, if the said person has not obtained any prior permission for acquiring higher education. Learned counsel appearing for R.Dhana Amaravathi has totally misconstrued the provision which deals with incentive increment and has applied the said analogy for getting promotion which is impermissible in law. Hence the claim of R.Dhana Amaravathi is rejected.

18. Therefore, the Writ Petition filed by R.Dhana Amaravathi in W.P.(MD).No.22974 of 2016 challenging the promotion/appointment order dated 10.06.2015 is liable to be rejected and hence, this Writ Petition is dismissed.

19. The Writ Petition filed by J.Kaveriappan in W.P.(MD).No.23878 of 2016 praying to approve his promotion is legally valid. Hence, the impugned order dated 28.11.2016 directing to produce the original resolution is illegal and the said ground is absolutely flimsy. Therefore, the second respondent/ the Secretary of OVC Higher Secondary School is directed to produce the original order of resolution passed by the School Committee within a period of one (1) week from the date of receipt of a copy of this order. On receipt of the same, the first respondent/the District Educational Officer is directed to approve the appointment/promotion of the said J.Kaveriappan within a period of two (2) weeks thereafter. On approval, the first and second respondents are directed to disburse all the monetary benefits including salary and other benefits to the petitioner/ J.Kaveriappan within a period of four (4) weeks therefrom. Hence, the Writ Petition in W.P.(MD).No.23878 of 2016 is allowed.

20. In the result,

- (i) W.P.(MD).No.15112 of 2016 is dismissed as infructuous.
- (ii) W.P.(MD).No.22974 of 2016 is dismissed.
- (iii) W.P.(MD).No.23878 of 2016 is allowed.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

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/ /2022

Sub Assistant Registrar(CS)

Lm



To

1.The Director of School Education,  
College Road, Chennai - 600 006.

2.The Joint Director of Higher Secondary Education,  
College Road, Chennai - 600 006.

3.The Joint Director of Secondary Education,  
College Road, Chennai - 600 006.

4.The District Educational Officer,  
Sivagangai, Sivagangai District.

5.The Secretary,  
OVC Higher Secondary School,  
(Now under the Direct Control of District Educational Officer,  
Sivagangai),  
Manamadurai, Sivagangai District.

+1 CC to M/s.N.SATHISH BABU, Advocate ( SR-24320[F] dated 06/06/2022 )

+1 CC to M/s.A. THIRUMURTHY, Advocate ( SR-24270[F] dated 02/06/2022 )

+1 CC to M/s.SPL.GP ( SR-24283,SR-24287[F] dated 03/06/2022 )

**W.P. (MD) .Nos.15112, 22974 and 23878 of 2016**  
**02.06.2022**

RD(10.06.2022) 9P 9C