



W.P(MD)No.26544 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.26544 of 2022

and

W.M.P(MD)Nos.20720 & 20721 of 2022

S.Delphin Jayanthi Flora

... Petitioner

Vs.

- 1.The Chief Educational Officer,
Office of the Chief Educational Officer,
Nagercoil,
Kanyakumari District.
- 2.The District Educational Officer,
Office of the District Educational Officer,
Nagercoil,
Kanyakumari District.
- 3.The Bishop,
CSI Kanyakumari Diocese,
CSI Diocesan Office,
71A, Dennis Street,
Nagercoil – 629 001.
Kanyakumari District.
- 4.The Corporate Manager,
CSI Corporate Management of Schools,
CSI Diocesan Office,
71A, Dennis Street,



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Nagercoil – 629 001.
Kanyakumari District.

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5.The Correspondent,
L.M.S.Higher Secondary School,
South Thamaraikulam,
South Thamaraikumul Post,
Kanyakumari District.

6.The Administrative Committee,
Represented by
The Administrative Secretary,
CSI Diocesan Office,
Nagercoil – 629 001.
Kanyakumari District.

7.The Executive Council,
Represented by
The Secretary,
CSI Diocesan Street,
71A, Dennis Street,
Kanyakumari District.

... 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 give reemployment to the petitioner as Headmistress in L.M.S. Higher Secondary School, South Thamaraikulam in terms of G.O(Ms).No.261 School Education Department dated 20.12.2018 and G.O(Ms).No.115 School Education dated 28.06.2022 considering the request of the petitioner dated 24.08.2022 before the date of retirement i.e. 30.11.2022.

For Petitioner : Mr.S.Anwar Sameem

For Respondents : Mr.S.Shaji Bino
Special Government Pleader
for R.1 & R.2



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Mr.F.Deepak for R.3

Mr.S.C.Herold Singh
Standing Counsel for R.4 & R.6

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is employed as Headmistress in the fifth respondent School. She reaches the age of superannuation today (30.11.2022). The petitioner seeks reemployment till the end of the academic year. The petitioner's request was declined by the fourth respondent on the ground that there are surplus teachers working in other Schools run by the Corporate Management. Seeking direction for such reemployment, this writ petition has been filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4.The private respondents on the other hand stick to their earlier stand. The learned Special Government Pleader appearing for the Department states that they have no role in the matter.



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5.The learned counsel appearing for the writ petitioner relies on G.O(Ms)No.261 School Education Department dated 20.12.2018 and G.O(Ms)No.115 School Education Department dated 28.06.2022. He also relies on the decision of the Hon'ble Division Bench made in ***Indira Devi Vs. The Joint Director of Higher Secondary Schools & Others*** (W.A(MD)No.435 of 2016) dated 05.04.2016 . The Hon'ble Division Bench had held as follows:

“5.As per G.O.Ms.No.1643, Education (U2) Department, dated 27.10.1988, while permitting continuance of the teachers in service, on re-employment terms on their attainment of age of superannuation, in the middle of the academic year, the following pre-requisite conditions have been prescribed.

1)The Character and the conduct of the teacher should be satisfactory.

2)They Should be physically fit to continue in service.”

6.The learned counsel appearing for the private respondents took me through the averments filed in the counter affidavit and relied on the following decisions:

1) ***The Chief Educational Officer & others Vs. P.S.Rajavel Durai***
(W.A(MD)No.107 of 2020 etc batch)



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2) *The State of Tamil Nadu & Others Vs. The Correspondent*
(W.A(MD)No.1091 of 2021)

3) *R.Palanivelu Vs. The Regional Joint Director of Collegiate Education* (W.P(MD)No.11814 of 2021)

7.After carefully considering the contentions raised on either side, I am satisfied that the petitioner has made out a case for grant of relief. It is not as if the petitioner has come to the Court belatedly. In fact, after knowing the stand of the Management, she has come to the Court even before she reached the age of superannuation. The fitness of the petitioner has not been questioned. In fact, the Correspondent of the School had recommended the case for re-employment. It was because there is no surplus teacher in the School concerned. Government Orders mentioned by the petitioner also clearly support her case. In these circumstances, it is not fair on the part of the fourth respondent to deny her the right to be re-employed from tomorrow (01.12.2022) till the end of the academic year. The respondents are directed to give re-employment as prayed for. This writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

30.11.2022

Index : Yes / No
Internet : Yes/ No
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Note: Issue Order Copy on 01.12.2022.

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