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Writ Appeal No.1678 of 2019

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Dated: 07.12.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR  
AND  
THE HONOURABLE MR. JUSTICE G.ARUL MURUGAN**

**Writ Appeal No.1678 of 2019**

P.Rani

....Appellant

Vs.

1. The Director of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
2. The District Educational Officer,  
Chennai North, Chennai.
3. The Correspondent,  
Singaram Pillay Higher Secondary School,  
Villivakkam,  
Chennai – 600 049.

... Respondents

**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 30.10.2017 made in W.P.No.22670 of 2014.

|                |                                                                                         |
|----------------|-----------------------------------------------------------------------------------------|
| For Appellant  | : Mr.J.Jayapalan<br>for Mr.S.Nedunchezhiyan                                             |
| For Respondent | : Mr.K.V.Sajeev Kumar<br>Special Government Pleader [R1<br>and R2<br>No appearance - R3 |



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## **JUDGMENT**

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(Judgment of the Court was delivered by R.SURESH KUMAR,J.)

This intra court appeal has been filed against the order passed by the Writ Court dated 30.10.2017 made in W.P.No.22670 of 2014.

2. The appellant joined in the third respondent school as B.T. Assistant on 16.07.1997. According to the appellant, the third respondent school was an aided school and the post in which she was appointed is a sanctioned post. When that being so, such an appointment should have been approved by the competent authorities i.e., the Director of School Education or the District Educational Officer as the case may be. However, since they have not come forward to approve such appointment, the appellant was constrained to approach this Court and file a writ petition in W.P.No.33700 of 2003 seeking for a writ of mandamus.

3. The said writ petition was considered and disposed by the order of the learned Judge on 21.11.2003, whereby a direction was given by the learned Judge to the competent authority i.e., first and second





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6. Since the order already passed in the year 2003 has not been implemented and no orders have been passed, even after joining in the Government service, in order to get an approval of the service period between 16.07.1997 and 12.09.2010 at the third respondent school, once again the petitioner had made a request to the respondents 1 and 2 and such a request since has not been considered, therefore the petitioner/appellant once again approached this Court by filing writ petition in W.P.No.22670 of 2014 seeking a writ of mandamus almost with the similar prayer.

7. This of the writ petition filed by the appellant/petitioner having been considered was rejected by the learned Judge through the impugned order dated 30.10.2017. In the said impugned order, the learned Judge has take the view that even though the appellant joined service in the third respondent school in the year 1997, she had chosen to file a writ petition only in the year 2003 i.e., after 7 years and after getting orders that was not persuaded further by the appellant/petitioner and she joined in a Government school in the year 2010 and thereafter, filed a writ petition in the year 2014, therefore after four years period only the



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present writ petition has been filed. Hence, the petitioner/appellant can be treated as a person, who slept over her right, therefore, she cannot wake up one fine morning and knock at the doors of this Court for redressal of her grievance and therefore, for such reasons, the learned Judge was inclined to reject the said writ petition and accordingly, the order impugned was passed.

8. Heard Mr.J.Jayapalan, learned counsel appearing for the appellant and Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the respondents 1 and 2.

9. Learned Special Government Pleader would contend that with regard to the genuineness of the claim that has been made by the appellant is concerned, that she had been appointed in a sanctioned post at the third respondent school and she was fully qualified to hold the said post of B.T. Assistant and proper selection had been made by the third respondent school are all the matters to be gone into by the authorities and without establishing the right to that effect by the appellant/petitioner, mere representation since had been given that would not confer any right on her to seek for approval of appointment.



WEB COPY 10. Even though a direction was given in the year 2003, subsequently, since the appellant has not persuaded the matter, probably she joined in the Government service in the year 2010, the issue was closed at that stage, therefore, the closed issue cannot be revived after several years as the present writ petition has been filed in the year 2014, whereas the alleged appointment claimed to have been made in the third respondent school of the petitioner/appellant was in the year 1997. Therefore, there was 17 years in between them. Hence, such a plea belatedly taken by the appellant/petitioner cannot be considered by the respondents 1 and 2. This was considered by the learned Judge and he has come to a conclusion to that effect of-course rightly and accordingly, he rejected the plea raised by the petitioner/appellant. Hence, the judgment impugned does not warrant any interference from this Court.

11. We have considered the said submission made by the learned counsel appearing for the appellant and the learned Special Government Pleader appearing for the respondents 1 and 2.



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12. Insofar as the appointment that has been made in respect of the appellant at the third respondent school as B.T. Assistant in the year 1997 is concerned, that has never been questioned by the respondents 1 and 2. Once the appointment is made in any aided school, the school Management would forward the same to the competent authority for approval, once such proposal is received from the school concerned, it is the duty of the competent authority to go into the claim made by the school with regard to the approval of the appointment and accordingly, orders to be passed either accepting or rejecting the said appointment for the purpose of approval.

13. Here, even though appointment was made in the year 1997, no such approval had been given till 2003, therefore, the appellant was constrained to approach this Court and filed a writ petition in the year 2003. The said writ petition in fact was ordered by giving a direction to the respondents 1 and 2 to consider the request of the petitioner/appellant within a time frame and communicate the decision to the petitioner/appellant.



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14. Had any decision been taken by the respondents 1 and 2 within a time frame fixed by this Court in the earlier order, even if any negative order had been passed for any genuine reasons and communicated to the petitioner/appellant, certainly the petitioner/appellant would have been in a position to challenge the same in the manner known to law. No such orders have been passed and direction that too time bound direction given by this Court has not been complied with for several years. Therefore, once again the petitioner/appellant was constrained to approach this Court by filing the second round of litigation, hence it cannot be stated that the petitioner/appellant has slept over her right instead, the first and second respondents have not acted upon on the request of the school as well as the teacher with regard to the approval of the appointment and also not complied with the orders passed by this court on 21.11.2003 in the first round of litigation.

15. These aspects have not been considered by the learned Judge in the order impugned. The period between 1997 and 2003 i.e., 7 years have been taken by the learned Judge as a delayed action on part of the appellant, but the fact remains that writ petition filed in the year 2003



was entertained and direction was given, which has not been complied with by the respondents 1 and 2.

16. Moreover, it is a continuous cause of action as every month, the petitioner/appellant is entitled to get the salary if her appointment is approved by the competent authority, therefore, it cannot be stated that the petitioner/appellant has not perused the matter.

17. In fact the petitioner/appellant diligently approached this Court at the earlier point of time and got an order in her favour by way of direction to the official respondents to consider the request of the petitioner/appellant with regard to the approval of her appointment, but that order has not been complied with by the official respondents. Therefore, for such an inaction on the part of the respondents 1 and 2, the appellant/petitioner cannot be blamed.

18. Therefore, the reasoning given by the learned Judge in the order impugned is not in consonance with the factual matrix of the case and hence, we are inclined to interfere with the said decision. Accordingly, the following orders are passed in this appeal:

- ◆ That the impugned order is set aside. As a sequel, there shall be a



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direction to the respondents 1 and 2 to consider the plea of the appellant for approval of her appointment as B.T. Assistant at the third respondent school with effect from 16.07.1997 till 12.09.2010, where she claimed to have worked in the third respondent school as B.T. Assistant, thereafter, she joined in Government service and accordingly, after verifying the records or documents pertaining to such appointment as well as the qualification of the appellant, the first and second respondents shall pass necessary orders with regard to the approval of the appointment of the appellant in the third respondent school as a B.T. Assistant with effect from 16.07.1997 and as a sequel if the appointment is approved by the first and second respondents, the appellant would be entitled to get the service benefits including the monetary benefits.

- ◆ The aforesaid compliance shall be made by the first and second respondents within a period of two(2) months from the date of receipt of a copy of this order.



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**WEB COPY** With these directions, this writ appeal is allowed to the direction indicated above. No costs.

**(R.S.K.,J.)**

**(G.A.M., J.)**

**07.12.2023**

Index: Yes/No  
Speaking Order/Non Speaking Order  
Neutral Citation: Yes/No  
mp

**To**

1. The Director of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
2. The District Educational Officer,  
Chennai North, Chennai.



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mp

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