



W.P.(MD).No.6099 of 2021

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 26.09.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD).No.6099 of 2021**

**and**

**W.M.P(MD)Nos.4742,4745 of 2021 & 19505 of 2023**

The Correspondent,  
St.Ignatius Convent Higher Secondary School,  
Palayamkottai-627 002,  
Tirunelveli District.

... Petitioner

Vs.

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

2.The Chief Educational Officer,  
Tirunelveli, Tirunelveli District.

3.The District Educational Officer,  
Tirunelveli, Tirunelveli District.

... 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 relating to the impugned proceedings issued by the 3<sup>rd</sup> respondent, District Educational Officer in Na.Ka.No.5751/A4/2018, dated 19.12.2018, quash the same, in so far as Tmt.J.Karthika is concerned and further direct the 3<sup>rd</sup> respondent, District Educational Officer to release forthwith annual increment admissible to Tmt.J.Karthika in the post of BT Assistant (Maths)



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w.e.f. 06.10.2012, with all attendant benefits including the arrears of salary thereon.

For Petitioner : Mr.K.Ragatheesh Kumar

For Respondents : Mr.N.Ramesh Arumugam  
Government Advocate

### **ORDER**

The present writ petition has been filed to call for the records relating to the impugned proceedings issued by the 3<sup>rd</sup> respondent, District Educational Officer in Na.Ka.No.5751/A4/2018, dated 19.12.2018, quash the same, in so far as Tmt.J.Karthika is concerned and further direct the 3<sup>rd</sup> respondent, District Educational Officer to release forthwith annual increment admissible to Tmt.J.Karthika in the post of BT Assistant (Maths) w.e.f. 06.10.2012, with all attendant benefits including the arrears of salary thereon.

2. The petitioner school was initially established in the year 1921 as Primary School and thereafter, it was upgraded as Middle School, following which it was upgraded as High School and then upgraded as Higher Secondary School in the year 1978. The said school is a minority corporate management school. One post of B.T Assistant fell vacant on 06.10.2012 on account of the voluntary retirement scheme of the then incumbent S.Mary Ranjitham on



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05.10.2011. In that vacancy, the school appointed a fully qualified candidate, namely J.Karthika as B.T Assistant (Maths) with effect from 06.10.2012 and she joined duty on the same date. Immediately after her appointment, the school submitted necessary proposal to the District Educational Officer for approving her appointment for the purpose of disbursement of grant-in-aid towards her salary. The District Educational Officer returned the proposal vide proceedings, dated 12.12.2015 for the reason that the said teacher Karthika was not qualified in TET examination. Challenging the same, the said Karthika filed W.P(MD)No.2913 of 2017 before this Court. During the pendency of the said writ petition, the District Educational Officer vide proceedings, dated 20.03.2017 approved the appointment of Karthika with effect from 06.10.2012 and released grant-in-aid towards her salary. Thereafter, the said writ petition was withdrawn on 21.12.2007. Though the District Educational Officer approved the appointment and released salary, the annual increment admissible to her was not released for the subsequent years.

3. The petitioner school submitted a representation to the District Educational Officer on 30.11.2018 requesting to release the annual increment of J.Karthika with effect from 06.10.2012. However, vide impugned



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proceedings, dated 19.12.2018, the District Educational Officer denied to release annual increment once again for the reason that the said Karthika was not qualified in TET. This matter is no more *res integra*. In various writ petitions and writ appeals, this Court has already held that the requirement of pass in TET is not applicable to the teachers appointed in minority educational institution. At the same line, the petitioner school had earlier filed the writ petitions in W.P(MD)Nos.1187, 1189, 1200 and 1201 of 2020 with respect to 4 teachers challenging the very same impugned proceedings. This Court was pleased to allow those writ petitions by an order, dated 22.01.2020 directing the District Educational Officer to release the annual increment in respect of similarly placed persons in the same school. Pursuant to the same, the District Educational Officer vide proceedings, dated 25.02.2021 rejected to release the annual increment and other benefits to the teachers who were the writ petitioners in the aforesaid writ petitions. The District Educational Officer ought to have sanctioned the proposal of release of annual increment to the said Karthika in the similar lines. However, the District Educational Officer had rejected the proposal for annual increment sent by the petitioner school vide proceedings, dated 19.12.2018. Challenging the same, this writ petition came to be filed.



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4. The 3<sup>rd</sup> respondent had filed a counter and the learned Government Advocate submitted that getting qualification of TET is necessary for approval of grant of annual increment. Since the said Karthika did not qualify TET, she is not entitled for annual increment and on that line, he pressed for dismissal of the writ petition. He further submitted that in the case of ***B.Annie Packiarani Bai Vs. The Director of School Education***, the department have already preferred a SLP in SLP(Civil) Diary No.17702 of 2021 with respect to the issue of teachers of minority institution be qualified in TET and the same is pending before the Hon'ble Apex Court. However, no interim orders have been passed by the Hon'ble Apex Court. In view of the pendency of the said SLP, the learned Government Advocate pressed for dismissal of the writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

6. However, this issue is no more *res integra*. Considering the fact that already this court in ***W.P(MD)Nos.1187 and 1189 of 2020*** and batch had considered a similar case of 4 teachers in the same school and had passed favourable orders pertaining to the same impugned order, dated 19.12.2018 of the District Educational Officer, this Court is inclined to quash the impugned order, dated 19.12.2018. The petitioner school is directed to submit fresh



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proposal seeking grant of annual increment of the petitioner to the 3<sup>rd</sup> respondent and on receipt of the same, the 3<sup>rd</sup> respondent is directed to release the annual increment of J.Karthika in the light of the decisions of the Hon'ble Division Bench of this Court reported in **2016 (5) CTC 639 (The Secretary to Government Vs. S.Jeyalakshmi)** within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. With the above said observations, this Writ Petition stands allowed.  
No costs. Consequently, connected Miscellaneous Petitions are closed.

**26.09.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes/ No  
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To

- 1.The Director of School Education,  
College Road, Chennai-600 006.
- 2.The Chief Educational Officer,  
Tirunelveli, Tirunelveli District.
- 3.The District Educational Officer,  
Tirunelveli, Tirunelveli District.



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**L.VICTORIA GOWRI, J.**

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