



W.P(MD)No.16434 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.16434 of 2022

and W.M.P(MD)Nos.11869, 11872 and 11873 of 2022

P.Kuthala Eswari

... Petitioner

Vs.

1. The Joint Director (Aided School),
Department of Elementary Education,
DPI Campus, Chennai.

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

3.The District Educational Officer,
Tenkasi District,
Tenkasi.

4.The Block Educational Officer-2,
Tenkasi Block,Tenkasi.

5.The Accountant General,
Accounts and Entitlement Department,
261, Anna Salai,
Nandhanam, Chennai.

6.The Secretary,
ICI Primary School,
Elanji, Tenkasi Taluk,
Tirunelveli District.

... Respondents



W.P(MD)No.16434 of 2022

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ in the nature of writ of WRIT OF CERTIORARIFIED MANDAMUS to call for the records on the file of the 6th respondent in connection with the impugned order of suspension passed by him vide his proceedings in No.NIL dated 28.05.2022 and quash the same as illegal, arbitrary in the light of the order passed by the 1st respondent in Na.Ka.No.003571/G1/2019 dated 14.06.2019 and consequently direct him to pay salary for the month of February to till March 10 of 2015 and regularize the service from the date of suspension to the date of reinstatement, i.e., from 11.03.2015 to 16.08.2019 as duty period and pay the salary and yearly increments since 2012 and other service and monetary benefits in accordance with the 7th Pay Commission with 12% of interest in the light of order passed by the Hon'ble Apex Court in a similar case in Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalaya (D.ED) and others reported in (2013) 10 SCC 324 and thereby direct him to send the pension proposal promptly to the 1st and 4th Respondents within the time limit that may be stipulated by this Hon'ble Court.

For Petitioner	: Mr.G.Thalaimutharasu
For R1 to R4	: Mr.V.Omprakash Government Advocate
For R5	: Mr.P.Gunasekaran
For R6	: Mr.M.Mahaboob Athif



WEB COPY



W.P(MD)No.16434 of 2022

ORDER

The present Writ Petition has been filed by a Secondary Grade Teacher working in an Aided School challenging an order of suspension.

2. The petitioner herein was suspended on 28.05.2022. The petitioner was about to retire on 31.05.2022 and she was not allowed to retire and her services were retained until further orders. This order is under challenge in this Writ Petition.

3. According to the learned counsel appearing for the petitioner, the school management does not have any power to retain the services of the writ petitioner beyond the date of superannuation and therefore, the order impugned in this Writ Petition is liable to be set aside.

4. The learned counsel for the petitioner further submits



W.P(MD)No.16434 of 2022

WEB COPY

that the petitioner is ready to work out his remedies regarding the second part of the prayer, namely, the issues relating to the suspension period of the year 2015.

5. Per contra, the learned counsel appearing for the management contended that the order of suspension will operate for a period of three days. Thereafter, the petitioner has not approached the management. So the pension proposal could not be forwarded.

6. I have heard the submissions made on either side and perused the materials available on record.

7. The petitioner is working in an aided school and therefore, her service cannot be considered as Government service. An aided school will not have any power to retain the services of a Teacher beyond the date of superannuation.

8. Since the learned counsel for the petitioner submits



W.P(MD)No.16434 of 2022

WEB COPY

that the petitioner is ready to work out his remedies regarding the second part of the prayer, namely, the issues relating to the suspension period of the year 2015, this Court considers only the suspension order dated 28.05.2022.

7. In view of the above stated facts, this Court is inclined to issue the following directions:

i) The order of suspension dated 28.05.2022 had expired by 31.05.2022 and the 6th respondent/school management agreed to treat the period from 28.05.2022 to 31.05.2022 as duty period.

ii) The petitioner is directed to approach the sixth respondent for preparing the pension proposal papers and on the proposals being submitted, the sixth respondent is directed to forward the pension proposal of the writ petitioner within a period four weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is partly



W.P(MD)No.16434 of 2022

WEB COPY

allowed. No costs. Consequently, connected miscellaneous petitions are closed.

12.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
CM

To,
1. The Joint Director (Aided School),
Department of Elementary Education,
DPI Campus, Chennai.

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

3. The District Educational Officer,
Tenkasi District,
Tenkasi.

4. The Block Educational Officer-2,
Tenkasi Block, Tenkasi.

5. The Accountant General,
Accounts and Entitlement Department,
261, Anna Salai,
Nandhanam, Chennai.



WEB COPY



W.P(MD)No.16434 of 2022

R.VIJAYAKUMAR, J.

CM

W.P(MD)No.16434 of 2022
and W.M.P(MD)Nos.11869, 11872
and 11873 of 2022

12.12.2023