



W.P.(MD).No.17308 of 2020

WEB COPY

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

**DATED : 03.07.2023**

**CORAM**

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

**W.P.(MD).No.17308 of 2020**

K.Muthusamy

... Petitioner

Vs.

1.The State of Tamil Nadu,  
Represented by the Secretary to Government,  
Education Department,  
Fort St.George,  
Chennai-600 009.

2.The Director of Public Libraries,  
No.737/1, Anna Salai,  
Chennai-600 002.

3.The District Library Officer,  
District Library Office,  
Virudhunagar,  
Virudhunagar 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 pertaining to the impugned order in Na.Ka.No.4031/A2/2019, dated 15.10.2019 passed by the 2<sup>nd</sup> respondent and quash the same as illegal and consequently, direct the 2<sup>nd</sup> respondent to appoint the petitioner in the post of Grade III Librarian by way of recruitment by transfer from the post of Village



**W.P.(MD).No.17308 of 2020**

Librarian with effect from 01.10.2013 along with all monetary benefits and arrears of pay by extending the benefits of G.O.(Ms) No.101, School Education (Po.Nu.1) Department, dated 12.05.2015 within a time frame that may be stipulated by this Court.

For Petitioner : Mr.B.S.Meltiue

For Respondents : Mr.M.Prakash  
Additional Government Pleader

### **ORDER**

The present writ petition has been filed to call for the records pertaining to the impugned order in Na.Ka.No.4031/A2/2019, dated 15.10.2019 passed by the 2<sup>nd</sup> respondent and quash the same as illegal and consequently, direct the 2<sup>nd</sup> respondent to appoint the petitioner in the post of Grade III Librarian by way of recruitment by transfer from the post of Village Librarian with effect from 01.10.2013 along with all monetary benefits and arrears of pay by extending the benefits of G.O.(Ms) No.101, School Education (Po.Nu.1) Department, dated 12.05.2015 within a time frame that may be stipulated by this Court.



W.P.(MD).No.17308 of 2020

2. The learned counsel for the petitioner would submit that educational qualification of the petitioner is +2, C.Li.Sc. He was working as a Village Librarian at Ramuthevanpatti, Virudhunagar District. From the date of initial appointment on 24.09.2008 as Village Librarian to till date, he is serving in the said post without any blemish. Further, he would submit that the respondents invited applications from eligible candidates for the appointment to the post of Village Librarian on temporary basis. The District Employment Exchange Office, Virudhunagar sponsored a list of candidates including the petitioner to the respondents. The 3<sup>rd</sup> respondent addressed the petitioner a call letter to participate in the interview with all educational and other certificates. The petitioner participated in the interview and the 3<sup>rd</sup> respondent selected and appointed the petitioner as Village Librarian on temporary basis against the regular sanctioned vacant post, dated 24.09.2008.

3. The 3<sup>rd</sup> respondent appointed the petitioner in terms of the selection process as per the rules of the Government. The petitioner was working as a full time Village Librarian and he received Rs.1,500/- as consolidated pay and now, the petitioner is receiving Rs.9,552/- as special time scale every month from the Government Treasury and the respondents deduct Rs.60/- towards family



W.P.(MD).No.17308 of 2020

benefit fund and Rs.180/- towards New Health Insurance Scheme like regular Librarians working in the Library Department. The petitioner is also paying personal tax to the Government every year. He is a member of contributory pension scheme and his subscription number is 7155218.

4. The respondents have to regularize his service of Village Librarian after completion of 5 years with upgradation as Librarian Grade III from the date of initial appointment in the light of G.O.(ID)No.2, School Education (K2) Department, dated 05.02.1997. The services of 160 Village Librarians were regularized with upgradation of Librarian Grade-III vide G.O(Ms)No.101, School Education (Po.Nu.1) Department, dated 12.05.2015.

5. The petitioner has been working as a Village Librarian on temporary basis more than 10 years continuously without any break since his appointment. Though the petitioner was employed like other Village Librarians who were appointed in the year 2008 and whose services were regularized with upgradation as Librarian Grade III in the year 2015, the respondents have not regularized the service of the petitioner. Despite the perennial nature of work



**W.P.(MD).No.17308 of 2020**

WEB COPY

which the petitioner has been serving and despite he made a representation, dated 13.11.2017 requesting them to regularize the service with upgradation as Librarian Grade III, the same is of no avail. Hence, the petitioner filed W.P(MD)No.3927 of 2018 seeking to direct the respondents to dispose of his representation, dated 25.04.2019. However, the 2<sup>nd</sup> respondent passed the impugned order in Na.Ka.No.4031/A2/2019, dated 15.10.2019 rejecting his claim for upgradation as Grade III Librarian with all service and monetary benefits. Hence, this writ petition came to be filed. The learned counsel for the petitioner would submit that the petitioner is entitled to be upgraded a Grade III Librarian and the writ petition has to be allowed.

6. Per contra, the learned Additional Government Pleader would submit that this writ petition is squarely covered by the orders passed by this Court in ***W.P(MD)No.17345 of 2020 (Malarkodi Vs. The State of Tamil Nadu, Reprinted by the Secretary to Government, Education Department & Others)***. The relevant portion of the order is extracted as follows:

*“9.Admittedly, challenging the impugned order dated 15.10.2019, the petitioner has preferred an appeal dated 29.11.2019 before the 1<sup>st</sup> respondent, which was sent through RPAD to the 1<sup>st</sup> respondent. However, without obtaining any orders from the 1<sup>st</sup> respondent, the petitioner has approached this Court by way of filing*



W.P.(MD).No.17308 of 2020

*this writ petition, which does not warrant any interference of this Court.*

*10. In the light of the above, this Court is inclined to pass the following directions:-*

- i) the petitioner is directed to send the hard copies of the appeal dated 29.11.2019 along with the typed set of papers, if any, before the 1<sup>st</sup> respondent, within a period of three weeks from the date of receipt of a copy of this order; and*
- ii) on receipt of such appeal papers, if any, the 1<sup>st</sup> respondent is directed to consider the petitioner's appeal dated 29.11.2019 and pass appropriate orders on merits and in accordance with law, within a period of twelve weeks therefrom; ”*

He would further submit that this petition may also be disposed of in the said terms.

7. In view of the order cited supra, this Court is inclined to pass the following directions:

- (i) The petitioner is directed to make a fresh representation along with required documents, if any, before the 1<sup>st</sup> respondent within a period of 3 weeks from the date of receipt of a copy of this order.



**W.P.(MD).No.17308 of 2020**

WEB COPY

(ii) On receipt of such representation, the 1<sup>st</sup> respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law within a period of twelve (12) weeks from the date of receipt of the representation.

8. With the above said terms, this Writ Petition is disposed of. No costs.

**03.07.2023**

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

gbg

To

- 1.The Secretary to Government,  
The State of Tamil Nadu,  
Education Department,  
Fort St.George,  
Chennai-600 009.
- 2.The Director of Public Libraries,  
No.737/1, Anna Salai,  
Chennai-600 002.
- 3.The District Library Officer,  
District Library Office,  
Virudhunagar,  
Virudhunagar District.



WEB COPY



**W.P.(MD).No.17308 of 2020**

**L.VICTORIA GOWRI, J.**

gbg

**W.P.(MD).No.17308 of 2020**

**03.07.2023**