



W.P.(MD).No.17746 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.17746 of 2020

and

W.M.P(MD)Nos.14820 of 2020 & 20531 of 2023

C.Mano Ranjitham,
Secondary Grade Teacher,
R.C. Primary School, Ayankulam,
Tirunelveli District-627 007.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St. George, Chennai-09.
- 2.The Director of School Education,
College Road, Chennai-06.
- 3.The Director of Elementary Education,
College Road, Chennai-06.
- 4.The Chief Educational Officer,
Tenkasi District at Tenkasi.
- 5.The District Educational Officer,
Sankarankovil, Tenkasi District.



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6.The District Educational Officer,
Tirunelveli, Tirunelveli District.

7.The Block Educational Officer,
Kuruvikulam, Tenkasi District.

8.The Block Educational Officer,
Palayamkottai Rural,
Nellaippar High Road, Tirunelveli,
Tirunelveli District.

9.The Correspondent,
R.C Primary School, Sevalkulam,
Tenkasi District.

10.The Correspondent,
R.C Primary School, Ayankulam,
Tirunelveli District-627 007.

11.The District Educational Officer (Elementary),
Tenkasi, Tenkasi District.

12.The District Elementary Educational Officer,
Tirunelveli District,
Tirunelveli.

... Respondents

*(R-11 and R-12 are impleaded vide Court order, dated
26.07.2023 in W.M.P(MD)No.14769 of 2023 in
W.P(MD)No.17746 of 2020)*

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
approve forthwith the appointment of the petitioner as Secondary Grade
Teacher in the ninth respondent School namely, R.C Primary School,



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Sevalkulam, Tenkasi district with effect from 25.03.2003 and disburse all attendant benefits and allowances.

For Petitioner : Mr.S.Xavier Rajini

For R-1 to R-8 &
R-11 & R-12 : Mr.V.Om Prakash
Government Advocate

For R-9 & R-10 : No appearance

ORDER

The present writ petition was filed originally with a prayer for a Mandamus directing the respondents to approve the appointment of the writ petitioner as a Secondary Grade Teacher with effect from 25.03.2003. After filing of the writ petition, the Department took an objection that an order has been passed on 14.08.2007, approving the appointment of the petitioner with effect from 01.11.2004. Without challenging the said order, the present writ petition for a Mandamus is not maintainable. Pursuant to the said defence taken by the State, the petitioner had filed W.M.P(MD)No.14772 of 2023 to amend the prayer in order to incorporate the prayer for quashing the order, dated 14.08.2007 passed by the twelfth respondent. The said application was allowed by this Court.

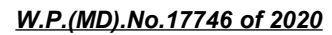


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2. One Sahaya Jeya Rani, who was working as a Secondary Grade Teacher had resigned from her job on 13.11.2002. A perusal of the staff fixation order for the academic year 2002 - 2003 reveals that the ninth respondent School is entitled to fill up one post of Head Master and 3 posts of Secondary Grade Teachers. The petitioner was appointed as a Secondary Grade Teacher on 25.03.2003 in the vacancy created by the resignation of Sahaya Jeya Rani. On the date when the petitioner was appointed, she was the third Secondary Grade Teacher in the said School. Therefore, it is clear that the appointment of the petitioner cannot be found to be defective on the ground of surplus.

3. The order impugned in the writ petition has been passed on 14.08.2007 approving the appointment with effect from 01.11.2004. A perusal of the additional typed set of papers filed by the writ petitioner indicates that the School had forwarded the proposal for the approval of the appointment of the writ petitioner on 24.11.2003 itself. The said proposal was returned by the Additional Assistant Elementary Education Officer on 21.06.2004 seeking certain clarifications. Thereafter, the School has forwarded the proposal for the



4. The learned Government Advocate appearing for the official respondents has relied upon G.O(Ms)No.4 (School Education (X2) Department), dated 19.01.2004 and contended that the Teachers appointed on vacancies arising from 01.06.2003 in an aided School should remain on a consolidated pay for a period of five years. Only because of the said reason, the petitioner's appointment was approved from 01.11.2004 onwards.

<https://www.mhc.tn.gov.in/judis>



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School Education and Others Vs. R.Padma Sheela Rani and Another) and in ***W.P.No.2474 of 2005 (S.Asirvatham Vs. The State of Tamil Nadu, Represented by its Secretary to Government, Department of School Education and Others)***, dated 23.07.2008. A perusal of the judgments of the Hon'ble Division Bench of this Court clearly shows that, where a vacancy arises prior to 01.06.2003 and an appointment is also made to that post, they would not fall under G.O(Ms)No.4 and on the other hand, they would be covered only under G.O(Ms)No.79 (School Education) Department, dated 14.06.2002.

6. In the present case, admittedly, the petitioner was appointed on 25.03.2003 much prior to the cut-off date of 01.06.2003. Therefore, this Court is convinced of the fact that the impugned order passed by the twelfth respondent herein fixing the date of approval from 01.11.2004 is not legally sustainable and the same is liable to be set aside.

7. In view of the above said discussions, the order impugned in the writ petition is set aside insofar as the portion in which the approval is granted from 01.11.2004 onwards. Due to administrative reasons, the powers of the twelfth



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respondent have been conferred upon the eleventh respondent. Therefore, the eleventh respondent is directed to grant approval to the appointment of the writ petitioner as a Secondary Grade Teacher with effect from 25.03.2003 onwards. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

8. This writ petition stands allowed, accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

18.10.2023

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

To

- 1.The Secretary,
The State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai-09.
- 2.The Director of School Education,
College Road, Chennai-06.



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R.VIJAYAKUMAR, J.

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