



W.A.(MD) No.1812 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **12.10.2023**

CORAM

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) No.1812 of 2023
and C.M.P.(MD) No.13789 of 2023

1. The Director of School Education,
College Road,
Chennai ~ 600 006.
2. The Chief Educational Officer,
Pudukkottai,
Pudukkottai District.
3. The District Educational Officer,
Pudukkottai District. ... Appellants/Respondents 1 to 3

-Vs.-

- 1.K.Babu Jeyachandran ... 1st Respondent/Writ Petitioner
- 2.The Correspondent,
TELC Higher Secondary School,
Pudukkottai - 622 001,
Pudukkottai District.
- 3.The Correspondent,
Vallampuri Vadukanathan Higher Secondary School,
Poonamaravathi,
Pudukkottai District.



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4. The Correspondent,
Sree Sivakami Ambal High School,
Rangaitem,
Pudukkottai District.

... Respondents 2 to 4/
Respondents 4 to 6

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order dated 30.06.2022 made in W.P.(MD)No.11090 of 2021 on the file of this Court.

For Appellants : Mr.D.Sadiq Raja
Additional Government Pleader

For 1st Respondent : Mr.K.Ragatheshkumar
For M/s.Isaac Chambers

J U D G M E N T

(Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**)

This appeal has been instituted questioning the validity of the order dated 30.06.2022 passed in W.P.(MD) No.11090 of 2021.

2. The first respondent was holding the post of B.T. Assistant in a TELC aided school. Based on the inspection report, some teachers, including the first respondent, were found surplus and accordingly, deployment order was issued by the Chief Educational Officer, Pudukottai, by proceedings dated 23.05.2011.



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3. The grievances of the first respondent before the Writ Court was that the order of deployment was issued by the Chief Educational Officer, directing the first respondent, who is a B.T. Assistant, to join in a School, there was no such post of B.T. Assistant in the said School, enabling the first respondent to join. Thus, the first respondent immediately filed a writ proceedings challenging the said order in W.P. (MD) No.12774 of 2011. This Court passed an order dated 21.11.2011, directing the Chief Educational Officer, Pudukkottai, to consider the representation submitted by the writ petitioner / first respondent on 19.08.2011 and pass appropriate orders on merits and in accordance with law within a period of two weeks. However, no further order was passed by the competent authority redeploying the first respondent in any other school in the equivalent cadre of B.T. Assistant. Again the first respondent filed another Writ Petition in W.P.(MD) No.721 of 2012 and the said Writ Petition was dismissed as withdrawn on 21.09.2012. Thirdly, the first respondent filed W.P.(MD) No.13311 of 2012 and this Court has passed an order on 13.10.2018, stating that the file was moving, as per the submission of the Government Pleader. Final order was passed in W.P.(MD) No.13311 of 2012 on 06.06.2019 granting



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liberty to the first respondent to submit a fresh representation setting out the facts and circumstances of the case and the said representation was directed to be considered on merits and in accordance with law. Pursuant to the orders of this Court, fresh deployment order was passed and consequently, the first respondent was posted as B.T. Assistant (English) in Sri Sivagami Ambal High School, Pudukottai, wherein the first respondent has joined and working without arrears of salary.

4. Learned counsel for the first respondent mainly contended that the initial deployment order, issued by the Chief Educational Officer, Pudukkottai on 23.05.2011, was perverse since the first respondent was directed to join in the post of Secondary Grade Teacher, which is a lower cadre to the B.T. Assistant. Despite the fact that the first respondent was deployed to the post of Secondary Grade Teacher, he made an attempt to join there but there was no post of B.T. Assistant at Valampuri Vaduganathan Higher Secondary School, Ponamaravathi. Thus, the first respondent could not able to join duty in the post of B.T. Assistant.



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5. Since the first respondent was not at fault and the competent authorities of the School Education Department issued deployment order erroneously, we are of the opinion that the period of non-service is to be treated as compulsory wait and the first respondent is entitled for the arrears of salary and other consequential benefits for the period during which he had not served in any school. For the mistake committed by the authorities of the Education Department, the first respondent cannot be penalized. The facts in this regard were considered by the learned Single Judge and a direction was issued to sanction arrears of salary and other benefits admissible to the first respondent.

6. That being the factum, the order dated 30.06.2022, passed in W.P.(MD) No.11090 of 2021 stands confirmed consequently, Writ Appeal W.A.(MD) No.1812 of 2023 is dismissed. The appellants / competent authorities are directed to settle the arrears of salary and other admissible allowances to the first respondent within a period of 12 weeks from the date of receipt of a copy of this order. In respect of the lapses, negligence and dereliction of duty committed by the competent authorities of the Education Department in issuing erroneous orders of deployment and omissions and commissions, the Director of School



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Education is directed to conduct an enquiry and initiate disciplinary proceedings, if necessary, under the relevant rules in force. No costs.

Consequently, connected Civil Miscellaneous Petition is closed.

[S.M.S.J.] & [V.L.N.J.]
12.10.2023

NCC :Yes/No
Index :Yes/No
SJ

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