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W.P.No.17124 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.17124 of 2024
and W.M.P.No.18899 of 2024

S.Malligeswari

...Petitioner

-Vs -

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
College Road, Chennai – 600 006.
2. The Director of Elementary Education,
College Road, Chennai – 600 006.
3. The District Educational Officer (Elementary),
Villupuram District,
Villupuram.
4. The Block Educational Officer,
Office of the Block Educational Office,
Moogaiyur Panchayat Union,
at Manampoondi,
Villupuram District.
5. The Secretary,
Sri Lakshmi Narayana Aided Primary School,
Paranur & Post, Moogaiyur,
Kandachipuram Taluk,
Villupuram District – 605 755.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India



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praying to issue a Writ of Mandamus, directing the respondents to re-employ the petitioner as Secondary Grade Teacher for a period from 01.07.2024 to 31.05.2025, the end of next academic year, following the date of petitioner's superannuation dated 30.06.2024 and to issue a consequential direction to the respondents to grant salary for the above said period.

For Petitioner : Mr.R.Saseetharan
For Respondents
For R1 to R4 : Mr.S.Mythreye Chandru
Special Government Pleader

ORDER

This writ petition has been filed for direction directing the respondents to re-employ the petitioner as Secondary Grade Teacher for a period from 01.07.2024 to 31.05.2025.

2. The petitioner was originally appointed as Secondary Grade Teacher on 11.01.1998, at Thiruvalluvar Middle School, Madapattu, Villupuram District. The said school is an aided school, receiving teaching grant from the government of Tamil Nadu. The said school also governed under the provisions of Tamil Nadu Private School Regulation Act, 1973. Subsequently, the petitioner appointment was approved on 02.06.2023.



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3. While being so, by an order dated 01.10.2012, the third respondent found the petitioner as surplus teacher in the said school and re-deployed her in Sri Lakhmi Narayana Elementary Aided School, Paranur, Moogaiyur Panchayat Union, Villupuram District. Thereafter, due to attainment of age of superannuation, as on 30.06.2024, the petitioner was relieved from service.

4. The learned counsel appearing for the petitioner submitted that the date of retirement of the petitioner was 30.06.2024 and it falls middle of the academic year. Therefore, the petitioner is entitled to continue service till the end of the next academic year viz., 31.05.2025. He also referred the government order in G.O.Ms.No.1643 Education Department dated 27.10.1988, thereby directed that a teacher, who retires in the middle of the academic year, is entitled to continue in service till the end of the next academic year, provided her character and conduct is good and the teacher is physically fit to continue beyond the date of superannuation.

4.1. He further submitted that the petitioner, even before relieving from service on 20.06.2024 itself, applied to the respondents to



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re-employ her in service from 01.07.2024 to 31.05.2025, by annexing medical certificates. It was recommended by the fifth respondent school and they were forwarded to the authority concerned. However, the said request was not considered and the petitioner was relieved from service. The learned counsel appearing for the petitioner also relied upon another government order in G.O.Ms.No.261 School Education (SE5(2)) Department dated 29.12.2018 in which also categorically reiterated the very same policy decision.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. On perusal of the counter filed by the fourth respondent and on the submission made by the learned Special Government Pleader revealed that as per the government order in G.O.Ms.No.261 School Education (SE5(2)) Department dated 28.06.2022, if any surplus teachers are available then within the same district or under the same management, there can be no re-employment. Further in the District of Villupuram, where the petitioner was working as Secondary Grade Teacher, there are 52 teachers are working as surplus teachers in which,



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17 Secondary Grade Teachers are working in surplus post.

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7. Therefore, as per the guidelines issued in the government order in G.O.Ms.No.115, School Education (S.E 5(2)) Department dated 28.06.2022, and the instructions issued by the second respondent dated 29.07.2022, the claim of the petitioner cannot be considered. As per G.O.Ms.No.261 School Education (S.E.5(2)) Department dated 20.12.2018, it is clear that re-employment of the teachers should be given to the teacher for the welfare of the student, provided that there is no surplus teacher in that school.

8. Further, the government has taken a policy decision that the teacher who attained superannuation during the middle of the academic year, will not be entitled to re-employment, where there are surplus teachers. Further the re-employment is not a matter of right and once the teacher attains the age of superannuation, the relationship between master and servant ceases. Therefore, the request made by the petitioner for re-employment cannot be considered and the writ petition is devoid of merits and liable to be dismissed.



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9. Accordingly, the Writ Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. There shall be no orders as to costs.

18.07.2024

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

rts



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G.K.ILANTHIRAIYAN. J.

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