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W.P.No.18712 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED :29.04.2024**

CORAM

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER  
KUMAR**

**W.P.No.18712 of 2021**

S.Gomathi

... Petitioner

Vs.

1. The Director,  
Directorate of Elementary Education,  
D.P.I Complex,  
Nungambakkam,  
Chennai – 600 034.
2. The District Elementary Educational Officer,  
O/o District Education Department,  
Nagapattinam District.
3. The Assistant Educational Officer,  
O/o Assistant Educational Office,  
Sembanarkovil,  
Nagapattinam District.
4. The Secretary,  
Government Aided Middle School,  
Melaiyur, Mayiladuthurai Taluk,  
Nagapattinam District – 609 304.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of



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India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th Respondent in his proceedings No.1/2017 dated 24.02.2017, quash the same and issue consequential direction to the respondents to give notional promotion to the petitioner as Graduate Teacher in Tamil in the light of G.O.Ms.174 School Education Department dated 15.09.2006 and G.O.Ms.239 dated 22.09.2007 and grant all consequential benefits.

For Petitioner : Mr.D.Baskar

For R1 to R3 : Mr.K.H.Ravikumar,  
Government Advocate

For R4 : Mr.B.Jawahar

### **ORDER**

The petitioner herein, who was appointed as Higher Grade Teacher on 18.06.1969 in the 4<sup>th</sup> respondent School was subsequently promoted to the post of Secondary Grade Teacher in the month of January' 1979 and has attained superannuation on 31.10.2007. As the said date of superannuation was falling in the middle of the academic year, the petitioner claimed for her continuance in service till 31.05.2008, by filing W.P.No.34811 of 2007 and by virtue of the order passed in the Writ



Petition, she was continued up to 31.05.2008 and retired from service.

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2. Thereafter, from the year 2011 onwards, the petitioner started making claim for notional promotion in terms of G.O (Ms) No.174, School Education Department dated 15.09.2000 and G.O (Ms) No.239, School Education Department dated 22.09.2007 and also approached this Court once again by filing W.P.No.41624 of 2016. This Court by an order dated 28.11.2016, directed the respondents to consider the representation said to have been submitted by the petitioner. It is on considering the said representation dated 23.09.2016, the respondent no.4 issued the impugned proceedings. G.O (Ms) No.174, School Education Department dated 15.09.2000 mandates that in case if any vacancy in the post of secondary grade occurs, the same shall be filled up with a person having a qualification of B.Ed Degree as B.T.Assistant, whereas G.O (Ms) No.239, School Education Department dated 22.09.2007 provides that the vacancy in the post of Secondary Grade Teacher are to be filled up by way of promotion and direct recruitment in the ratio of 50:50.

3. The petitioner herein is claiming the said benefit of promotion in



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terms of the above referred Government orders. In order to claim the benefit of above referred two Government orders, the pre-condition is that the post of Secondary Grade Teacher in the respondent no.4 School should occur. But in the entire affidavit filed in support of the Writ Petition, there are no factual matrix that are pleaded to show when the cause of action arose for the petitioner to claim the benefit of above said two Government orders i.e., for promotion to the post of B.T.Assistant. In the absence of any factual matrix as to when the post of Secondary Grade Teacher fell vacant in the respondent no.4 School, thereby mandating the upgrading of the said post to that of B.T.Assistant etc., this Court cannot adjudicate the claim of the petitioner.

4. Be that as it may, admittedly the petitioner retired from service as early as in the year 2007 and approached this Court by claiming the relief as noted above, only in the year 2021, that too against an order passed by the respondent no.4 on 24.02.2017 i.e., four years after passing of the impugned order.

5. In the light of the above, this Court does not find any merit and



is of the considered view that the same is liable to be dismissed not only for want of merits, but also on the ground of delay and laches.

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6. Accordingly, the Writ Petition stands dismissed. No costs.

Connected Miscellaneous, if any shall stand closed.

**29.04.2024**

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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**MUMMINENI SUDHEER KUMAR, J.**

skr

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