



W.A.(MD)No.1127 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.(MD)No.1127 of 2024

and

C.M.P.(MD)No.8602 of 2024

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



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

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

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

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

: Appellants

Vs.

1.C.Mano Ranjitham

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

3.The Correspondent,
R.C. Primary School, Ayankulam,
Tirunelveli District – 627 007.

: Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent,
praying to set aside the order dated 18.10.2023 in W.P.(MD)
No.17746 of 2020 and allow this Writ Appeal.



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For Appellants : Mr.S.Shaji Bino
Special Government Pleader
For Respondent No.1 : Mr.S.Xavier Rajini

JUDGMENT

[Judgment of the Court was delivered by R.SURESH KUMAR, J.]

This Writ Appeal has been directed against the order dated 18.10.2023, made in W.P.(MD)No.17746 of 2020.

2.The first respondent / writ petitioner was appointed as a secondary Grade Teacher in the second respondent school on 25.03.2003, in the vacancy which caused due to the resignation of one incumbent Sahaya Jeya Rani, with effect from 13.11.2002.

3.The said appointment proposal has been sent by the school for approval to the appellant department on 24.11.2003. However, on 21.06.2004, it has been returned seeking certain clarifications which was also clarified by the school. Thereafter, it has been kept pending and ultimately on 14.08.2007 only, approval order has been granted, however, with effect from 01.11.2004 instead of 25.03.2003, the date on which the appointment was made.



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4. When this was questioned before the Writ Court, the defence that was taken by the appellant department was that there has been a Government Order in G.O.(Ms)No.4 (School Education (X2) Department), dated 19.01.2004, under which in aided schools in vacancies which are arising from 01.06.2003, if any appointment is made that appointee shall be kept in consolidated pay for a period of five years. Thereafter they would be brought under regular scale of pay.

5. That was the reason cited by the appellant department for late approval of the teacher concerned with effect from 01.11.2004 instead of 25.03.2003.

6. This aspect has been dealt with by the learned Judge, where the learned Judge having taken note of the judgments of the Division Bench made in ***W.A.No.190 of 2007 [The State of Tamil Nadu, represented by its Secretary, Department of School Education and others Vs. R.Padma Sheela Rani and another]*** and also 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]*** had concluded that if any vacancy arose prior to 01.06.2003, where appointment



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had been made, that would not fall under G.O.(Ms) No.4. That apart, insofar as this appointment is concerned, since the appointment is made on 25.03.2003 itself, that is well before 01.06.2003 ie., the cut off date given under G.O.(Ms)No.4, even that kind of defence cannot be taken by the appellant department. Therefore, the learned Judge was right in arriving at the conclusion and directing the respondents therein, who are the appellants herein to give approval to the writ petitioner teacher with effect from the date of original appointment ie.,25.03.2003. Aggrieved over the same alone, the present appeal has been directed.

7.Heard the learned Counsel on either side and perused the materials available on record.

8.The very reason or the only reason cited by the appellant department before the Writ Court as has been indicated hereinabove has been dealt with by the learned Writ Court based on the judgment of this Court and also on the basis that the applicability of the said G.O., cannot be made as it is against the appointment that has been made for the first respondent / writ petitioner, the reason being that the appointment was made on 25.03.2003, in the vacancy that was caused from 13.11.2002 in the



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respondent school, whereas the cut of date as per G.O.(Ms).No.4 is only 01.06.2003. Therefore, well before the cut off date, since the appointment has been made on 25.03.2003, by citing the said reason, the appellant department having made the belated approval with effect from 01.11.2004, cannot be sustained. Therefore, there is no infirmity in the order passed by the learned Writ Court. Hence, the appeal is liable to be dismissed.

9.Accordingly, this Writ Appeal is dismissed. The order passed by the learned Judge through the impugned order shall be complied with, if not already complied by the appellants within a period of six [6] weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[R.S.K.,J.] & [G.A.M.,J.]

11.07.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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R.SURESH KUMAR, J.
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G.ARUL MURUGAN, J.

MR

ORDER MADE IN
W.A.(MD)No.1127 of 2024

11.07.2024