



W.A(MD)No.1058 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.1058 of 2024
and
C.M.P(MD)No.7907 of 2024**

- 1.The Commissioner of School Education,
College Road,
Chennai – 600 006.
 - 2.The Chief Educational Officer,
Tenkasi,
Tenkasi District.
 - 3.The District Educational Officer,
Tenkasi,
Tenkasi District.
- ... Appellants/Respondents 1 to 3
- vs.
- 1.R.Grace Pappa
 - 2.The Correspondent,
C.E.T Tennyson High School,
Keela Kalangal,
Tenkasi District.
- ... 1st Respondent/Writ Petitioner
- ... 2nd Respondent/4th Respondent

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 08.08.2023 made in W.P(MD)No.25194 of 2022 on the file of this Court.

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For Appellants	: Mr.S.Shaji Bino Special Government Pleader
For Respondents	: Mr.A.Ajith Geethan for R.1

JUDGMENT

[Judgment of the Court was made by R.SURESH KUMAR, J.)

This Appeal has been directed against the order passed by the Writ Court, dated 08.08.2023 made in W.P(MD)No.25194 of 2022.

2.The first respondent/writ petitioner was appointed in the second respondent School as B.T Assistant (Science) with effect from 01.06.2018. The post was vacated by one T. Devarajan, who was working as B.T Assistant (History) and was promoted as Headmaster of the School.

3.Since the post in which the first respondent was appointed from 01.06.2018, originally was B.T Assistant (History) where this first respondent was appointed as B.T Assistant (Science), it become necessitated for conversion of the post from B.T Assistant (History) to B.T Assistant (Science). Therefore, that request had also been made by the second respondent School, which was considered and an order was passed

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on 19.07.2021 where such a conversion had been permitted, however, such conversion would take effect from the date of the order ie., from 19.07.2021.

4.Subsequently, on 02.12.2021, the proposal sent for approval of such appointment of the first respondent also having been considered was deferred by proceedings, dated 02.12.2021, wherein the appellants stated that the issue had been pending in a batch of cases in W.A(MD)No.76 of 2019 etc batch before the Hon'ble Supreme Court and therefore, till a final decision is taken by the Court of law, this issue of approval cannot be decided, therefore, the appointment proposal for approval can be considered at a later date.

5.This was the order passed by the appellants on 02.12.2021.

6.Both these orders ie., order dated 19.07.2021 imposing a condition that the conversion of the post would take effect from the date of the order alone and further order, dated 02.12.2021, as stated supra, were under-challenge in the Writ Petition filed by the first respondent in W.P(MD)No.25194 of 2022.

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7.The learned Writ Court having heard the parties concerned in the said Writ Petition disposed of the same by order dated 08.08.2023, whereby the learned Judge directed the appellants to approve the appointment of the writ petitioner ie., the first respondent herein subject to the result of the SLP challenging the order, dated 31.03.2021 passed in W.A(MD)No.76 of 2019 etc batch within a period of six weeks. Aggrieved over the same, the present Writ Appeal has been filed.

8.Heard Mr.S.Shaji Bino, learned Special Government Pleader appearing for the appellants and Mr.A.Ajith Geethan, learned counsel appearing for the first respondent. In view of the order that is going to be passed in this Writ Appeal, notice to the second respondent School is hereby dispensed with.

9.The first order is the approval of conversion of the post, dated 19.07.2021.



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10.In fact, the conversion they sought for is from 01.06.2018 as the B.T Assistant (History) was no longer required in the School concerned and only B.T Assistant (Science) was required, where the first respondent since was appointed from 01.06.2018 conversion had been sought for.

11.Though the conversion has been granted by the appellant authorities, they put some conditions, out of those conditions, in condition No.4, they stated that the effect of the order dated 19.07.2021 would take effect only from 19.07.2021, thereby the conversion sought for by the School from 01.06.2018 has been denied and conversion was given effect to only from 19.07.2021. When that order has been challenged, the learned Judge, having considered the requirement of the B.T Assistant (Science), has concluded that if at all conversion is permitted, that conversion should date back from the original appointment that was made in respect of the first respondent/writ petitioner ie., from 01.06.2018, as the one post of B.T Assistant (History) fell vacant in the second respondent School.



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12.Insofar as the second order is concerned, ie., dated 02.12.2021, the only reason cited by the appellant Department is pendency of SLP arising out of the order passed by the Division Bench of this Court in W.A(MD)No.76 of 2019 etc., batch.

13.Even though the learned Judge through the impugned order gave direction to the appellant Department to give approval subject to the outcome of the result of the SLP, which was pending before the Hon'ble Supreme Court challenging the order of the Division Bench, dated 31.03.2021 in W.A(MD)No.76 of 2019 etc., batch, the said position has also got changed now, as the said SLP also disposed of. The order of this Court since has not been modified except in one aspect, insofar as the said reason cited by the appellants through the order dated 02.12.2021 also would not be sustained.

14.Moreover, after the disposal made by the Hon'ble Supreme Court in the said pending case, the appellants assured that they would reconsider the issue, which is also reflected in the order, dated 02.12.2021.



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15. Therefore the direction that has been given by the learned Judge also cannot be found fault with.

16. The only grievance of the appellants if at all is that the learned Judge has granted a positive direction, the learned Judge has granted such a positive direction only because the only reason cited in the order dated 02.12.2021 which even as of now is no more available. Therefore, to that extent, the order passed by the learned Judge cannot be said to be an infirm one. Resultantly, we are inclined to pass the following order in this Writ Appeal:

'(i) That the order passed by the learned Judge which is impugned herein, dated 08.08.2023 in W.P(MD)No. 25194 of 2022 is hereby sustained, however, with the modification.

(ii) Accordingly, there shall be a direction to the appellants Department to re-consider the proposal submitted by the second respondent School with regard to



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B.T Assistant (Science) with effect from 01.06.2018 and
pass necessary orders thereon, within a period of two
months from the date of receipt of a copy of this order.'

17.With this modified direction, the Writ Appeal is disposed of.
However, there shall be no order as to costs. Consequently, connected
Miscellaneous Petition is closed.

[R.S.K.,J.] [G.A.M.,J.]
27.06.2024

NCC : Yes / No
Index : Yes / No
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To

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

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ORDER MADE IN
W.A(MD)No.1058 of 2024

DATED : 27.06.2024