



W.P.(MD).No.8404 of 2024

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 10.04.2024**

**CORAM**

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

**W.P.(MD).No.8404 of 2024**  
**and WMP(MD) No.7615 of 2024**

The Correspondent,  
St.Aloysius Higher Secondary School,  
Karankadu Post – 629 809,  
Kanyakumari District.

... Petitioner

Vs

1. The State of Tamil Nadu,  
Rep. by its Secretary,  
Department of School Education,  
Fort St. George, Chennai – 600 009.
2. The Director of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
3. The Joint Director of School Education (Secondary),  
DPI Campus, College Road,  
Chennai – 600 006.
4. The Chief Educational Officer,  
Kanyakumari District, At Nagercoil.
5. The District Educational Officer (Secondary),  
Nagercoil, Kanyakumari District.

... Respondents



**W.P.(MD).No.8404 of 2024**

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the 5<sup>th</sup> respondent pertaining to its proceeding in Oo.Mu.No. 290/A4/2024, dated 21.02.2024 and to quash the same and consequently directing the respondents to approve the appointment of T.K. Prema Kumari as Junior Assistant from the date of her initial appointment that is from 01.08.2018 and to pay arrear of salary and all attendant service and monitory benefits consequent to the same by considering the proposal resubmitted by this petitioner, dated 11.01.2024 within a stipulated time that may be specified by this Court.

For Petitioner : Mr. S.C.Herold Singh

For Respondents : Mr.T.Amjadkhan  
Government Advocate

### **ORDER**

The petitioner has filed this writ petition challenging the impugned proceedings of the 5<sup>th</sup> respondent in Oo.Mu.No. 290/A4/2024, dated 21.02.2024 and directing the respondents to approve the appointment of T.K. Prema Kumari as Junior Assistant from the date of her initial appointment, ie., from 01.08.2018 and to pay arrear of salary and all attendant service and monitory benefits, based on the proposal resubmitted by this petitioner, on 11.01.2024.



**W.P.(MD).No.8404 of 2024**

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2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent. Perused the materials available on record.

3.In the impugned order, dated 21.02.2024 it is stated that the post of Junior Assistant, for which, the petitioner School was appointed has been declared as surplus in the staff strength allotment fixed on 2018-19 for the academic year. Hence, no approval is granted to the petitioner School's appointment. The petitioner School has already challenged the order to declare the Junior Assistant post as surplus, by way of preferring a writ petition in W.P(MD) No.25492 of 2019. There is a specific observation made in the said order that any appointment made prior to the issuance of G.O.Ms.No.238, dated 13.11.2018 can be considered on merits. However, in the impugned order, the very same reason has been stated for rejection.

4.Since the appointment of T.K. Prema Kumari was made by the petitioner prior to 13.11.2018, the petitioner School is entitled to be considered favourably in pursuant to the specific observation made in the earlier order



W.P.(MD).No.8404 of 2024

made by this Court in W.P.(MD) No.25492 of 2019, dated 08.02.2023. For the sake of convenience, the above order is extracted hereunder:

*“2.The writ petitioner is a recognized and aided minority institution. The petitioner challenges the validity of G.O.(Ms)No. 238, School Education Department, dated 13.11.2018 and the consequential staff fixation made by the Chief Educational Officer. Vide order dated 07.02.2023 made in W.P.(MD)No. 13428 of 2020, I upheld the validity of G.O.(Ms) No.238, dated 13.11.2018. I had also held that approval of appointments made prior to issuance of G.O.(Ms) No.238, dated 13.11.2018 will be considered on merits and in accordance with law without reference to the said Government Order. Any appointment made after issuance of G.O.(Ms) No.238, dated 13.11.2018 will be subject to the said Government Order.”*

5.Since the impugned order has been passed without understanding the sprit of the above order, the impugned order is liable to be set aside.

6.In the result, this writ petition stands allowed and the impugned order of the 5<sup>th</sup> respondent in Oo.Mu.No. 290/A4/2024, dated 21.02.2024 is hereby set aside. The 5<sup>th</sup> respondent is directed to consider the proposal resubmitted by this petitioner on 11.01.2024 afresh in the light of the earlier



W.P.(MD).No.8404 of 2024

order passed by this Court in W.P(MD) No.25492 of 2019, within a period of eight (8) weeks from the date of receipt of copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**10.04.2024**

NCC : Yes / No

Index : Yes / No

Internet : Yes

**PNM**

To

1. The Secretary, State of Tamil Nadu,  
Department of School Education,  
Fort St. George, Chennai – 600 009.
2. The Director of School Education,  
DPI Campus, College Road,  
Chennai – 600 006.
3. The Joint Director of School Education (Secondary),  
DPI Campus, College Road,  
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Nagercoil, Kanyakumari District.



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**R.N.MANJULA, J.**

PNM

**ORDER IN  
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**10.04.2024**