



W.A(MD)No.1616 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.1616 of 2024
and
C.M.P.(MD)No.12675 of 2024**

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St. George,
Chennai-600 009.

2.The Director of School Education,
College Road,
Chennai-600 006.

3.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

4.The District Educational Officer,
Thukalay, Kanyakumari District.

... Appellants / Respondents

-VS-

The Manager / Correspondent,
V.K.P.Higher Secondary School,
Colachel, Kanyakumari District.

... Respondent/Writ Petitioner

PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the
order dated 11.11.2021 made in W.P.(MD)No.5768 of 2018.

For Appellants : Mr.S.P.Maharajan,
Special Government Pleader



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JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

The challenge in this Writ Appeal is to the order of the Writ Court directing the department to grant approval to the appointment of Tmt.A.Sajitha Nair as a B.T.Assistant in Social Science in the respondent school.

2. The said teacher was appointed on 02.01.2017, in the vacancy that arose due to the retirement of one R.Vincent on 31.12.2016. There is no dispute regarding the fact that the said teacher is qualified to be appointed as a B.T.Assistant. As usual, the District Education Officer, Thukalay, rejected the claim for approval on the ground that there are surplus teachers in the school. The claim that there are surplus teachers is based on the staff fixation for the year 2016-2017 done on 31.10.2016. This Court has repeatedly held that approval cannot be rejected for an appointment made to the sanctioned post on the basis of subsequent reduction in the student strength.

3. Apart from the above, in the case on hand, the said order of staff fixation dated 31.10.2016 was challenged in this Court in W.P.(MD)No. 5767 of 2018 and the said writ petition was allowed by this Court on 31.03.2021 restoring the number of staff to the original strength. The Writ



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Court has also taken note of this fact and directed approval. We therefore, find that this very appeal is an abuse of process of Court. Today, the instances of appeals by the Education Department even in matters which has been settled by Division Bench Judgments of this Court have become rampant. We come across such frivolous appeals on a day to day basis. We therefore dismiss the appeal with cost of Rs.10,000/- (Rupees Ten Thousand only) payable by the appellants / respondents to Cancare Foundation, 3A, Ramaniyam Saras, 39/17, 4th Main Road, Gandhi Nagar, Chennai, Tamil Nadu 600 020, (Mobile No. **9841617464**) by the appellants / respondents. It will be open to the Government to recover the same from the 3rd appellant / 3rd respondent.

4. Needless to observe that the authorities will pass an order approving the appointment of the teacher, if not already done within a period of four (4) weeks from the date of receipt of a copy of this order with effect from the date of her initial appointment. The arrears of salary payable to her will be paid with 6 percent interest from the date on which a salary for every month accrued till the date of actual payment. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

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NCC :Yes/No

Index :Yes/No

Internet: Yes

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