



WEB COPY

WP No. 2923 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-12-2025

CORAM

THE HONOURABLE MS. JUSTICE P.T. ASHA

WP No. 2923 of 2023

and

WMP Nos.3021 & 3024 of 2023

R.Vijayan

Petitioner(s)

Vs

1. The Commissioner
School Education, DPI campus College
Road chennai 600 006

2.The Joint Director
(Higher Secondary) School Education,
DPI Campus College Road chennai 600
006

3.The Joint Director
(personnel) DPI campus College Road
chennai 600 006

4.The Chief Educational officer
Thiruvannamalai

5.The Headmaster
E.Ve. Ra Higher Secondary school,
Vellore, vellore District

6.The Head master
Government Higher secondary school
Kelur Thiruvannamalai District



Respondent(s)

PRAYER:-

This writ petition is filed under Section 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, calling for the records of the second Respondent in Na.Ka.No. 6451 / W3 / E1 / 2021 dated 25.04.2022 and consequential impugned order of the third Respondent in Na.Ka.No. 26418 / A4 / E3 / 2022 20.01.2023, quash the same and consequently direct the Respondents to permit the petitioner to continue in the post of PG Assistant with all service and monetary benefits.

For Petitioner(s): M/s.Dakshayani Reddy,
Standing Counsel for
M/s.S.Suneetha

For Respondent(s): Mr.S.Prabhakar, GA

ORDER

This Writ Petition has been filed for the following reliefs:-

"calling for the records of the second Respondent in Na.Ka.No. 6451 / W3 / E1 / 2021 dated 25.04.2022 and consequential impugned order of the third Respondent in Na.Ka.No. 26418 / A4 / E3 / 2022 20.01.2023, quash the same and consequently direct the Respondents to permit the petitioner to continue in the post of PG Assistant with all service and monetary benefits."

2. This case reflects the nonchalant manner in which recruitments, transfers, etc., are dealt with by public authorities. The facts narrated herein



below would demonstrate the same.

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3. The petitioner was originally appointed as a Typist, with effect from 18.09.2009 and his services in the said post were regularized and probation was also declared. With effect from 30.03.2013, he was promoted to the post of Assistant and his services were also regularized in the said post. Meanwhile, the Government had taken a policy decision to provide for 2 % vacancy in the post of PG Assistant to be filled up by recruitment by transfer from the non-teaching posts in the Education Department provided they were qualified.

4. The petitioner herein is qualified with the B.Sc Mathematics, M.Sc Mathematics and B.Ed. Degrees and therefore, he is fully eligible for the appointment to the post of PG Assistant in Mathematics as per this policy decision of the Government. Consequently, the petitioner was appointed to the post of PG Assistant (Mathematics), vide proceedings of the Second respondent dated 06.02.2021 and was posted at Kelur, Thiruvannamalai District. He had joined the duty on the very same day after being relieved from the post of Assistant.

5. While so, the petitioner had submitted a representation dated 02.02.2022 seeking to relinquish his appointment to the post of PG Assistant



and requested to be re-transferred to the post of Assistant. However, despite receiving the said representation by proceedings dated 10.02.2022, the 3rd respondent had regularized the service of the petitioner as PG Assistant with effect from 06.02.2021. Therefore, the petitioner had presumed that his request for relinquishing the post of PG Assistant was not considered and he continued to work as PG Assistant. The petitioner had sought relinquishment on the ground that the pay scale drawn by his juniors in the post of Assistant was much higher than the pay scale drawn by the petitioner in the post of P.G. Assistant, as the petitioner's salary was fixed only at the entry level.

6. Parallely, the respondents acted upon the representation of the petitioner, dated 02.02.2022, by issuing a proceeding dated 25.02.2022, accepting the request for relinquishment with the condition that the petitioner would not seek appointment by transfer to the post of PG Assistant till 01.01.2025 and that his request would only be considered on the expiry of three years depending on the seniority of the petitioner at that point in time. However, an order of appointment to the post of Assistant was not issued to the petitioner and the petitioner continued to work in the post of PG Assistant. Since the petitioner's service had been regularized in the post of P.G. Assistant and an increment had also been granted to him, it was not beneficial for the petitioner to relinquish the post of P.G. Assistant after a lapse of two years, as such



relinquishment would adversely affect his monetary and service benefits.

Therefore, the petitioner had given a letter dated 09.11.2022, withdrawing his earlier request of relinquishment. Strangely, after receiving this letter, the 3rd respondent, vide proceedings dated 20.01.2023, issued orders of posting to the petitioner to join the post of Assistant in the 5th respondent school. Challenging the same, the petitioner is before this Court as the same would adversely affect the petitioner's monetary as well as service benefits.

7. The respondents had filed a counter inter alia, denying the claim of the petitioner and contending that on 16.02.2023, the petitioner's representation dated 09.11.2022, requesting that he be permitted to continue in the post of PG Assistant, was rejected. They would submit that once the petitioner had relinquished his promotion temporarily in writing and submitted the same to the appointing authority through the proper channel and the appointment authority has accepted the same with reference to Section 57 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (hereinafter referred as the “Act”) the petitioner cannot turn the clock back.

8. It is their contention that, after having made the representation dated 02.02.2022 of his own volition, the petitioner had temporarily relinquished his promotion for a period of three years and upon its acceptance by the



respondents, he cannot claim to continue in the promoted post as a matter of right. The respondents would rely heavily upon Section 57 of the Act to sustain the impugned order.

9. The learned counsel for the respondent would rely upon a letter dated 27.06.2022, given by the petitioner in response to the letter dated 25.04.2022, in and by which the respondent had accepted the request of the petitioner for being transferred back as an Assistant.

10. Heard the learned counsel on either side and perused the records.

11. A perusal of the records clearly indicates that on 02.02.2022, the petitioner had submitted a representation relinquishing the post of PG Assistant and seeking reversion to his earlier post. In response, the respondents, by letter dated 10.02.2022, regularized the petitioner's service as PG Assistant. The petitioner did not challenge this and continued to work in the post of PG Assistant. Two months later, the respondents issued a letter dated 25.04.2022, accepting the petitioner's request with certain conditions, which was also immediately acknowledged by the petitioner. However, the respondents did not issue the necessary posting order. On 19.11.2022, the petitioner, in writing, withdrew his representation seeking relinquishment. Thereafter, the respondents



have woken up and issued the impugned order.

12. Section 57, which has been relied upon by the respondent, is extracted herein below: -

57. (1) Any person may, in writing, relinquish any right or privilege to which he may be entitled under this Act or the special rules if, in the opinion of the appointing authority, such relinquishment is not opposed to public interest; and nothing contained in this Act or the special rules shall be deemed to require the recognition of any right or privilege to the extent to which it has been so relinquished.

(2) Relinquishment of a right or privilege for a temporary period shall be accepted if it is made for a period of not less than three years, subject to the condition that after the expiry of the said period, the claim of the right or privilege relinquished will be with reference to the state of affairs that exist on the date of expiry of the period of relinquishment and without restoration of original seniority. If relinquishment of right or privilege is made permanently and is accepted, subsequent claim of the relinquished rights or privileges shall not be entertained.”

13. On reading the said provisions, it does not, in any manner, justify the impugned order, particularly when the respondents had initially not acted upon the petitioner’s request but had regularized him in the post of PG Assistant.



Thereafter, when the petitioner had been regularized in the post of PG Assistant, the respondents issued a letter dated 25.04.2022 accepting his relinquishment, but did not provide him with an appointment order for the post of Assistant. Thereafter, the petitioner had issued a letter dated 09.11.2022, informing the authorities about the withdrawal of his request for relinquishment as it would adversely affect his monetary as well as service benefits. Thereafter, on 20.01.2023, the impugned order has been passed.

14. Therefore, in view of the fact that the petitioner withdrew his request for relinquishment, the defence taken by the respondents cannot be countenanced. Consequently, the writ petition is allowed. The impugned order is set aside. The respondents are directed to permit the petitioner to continue in the post of PG Assistant with all service and monetary benefits. No costs. Consequently, the connected Miscellaneous Petitions are closed.

SHA

04-12-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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