



WP.No.31522 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2025

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CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.31522 of 2018

Hilda Mercy, Age 53,
22-B, Miracle Cottage,
Parasuram Street,
Coonoor 643 102.
The Nilgiris District.

...

Petitioner

/vs/

- 1.State of Tamil Nadu
Rep. By its Secretary,
Education Department,
Fort.St.George,
Chennai 600 009.
- 2.The District Educational Officer,
Arignar Anna Campus,
Coonoor 643 102,
The Nilgiris District.
3. The Headmaster & Correspondent,
St.Antony's Higher Secondary School,
Coonoor 643 101.
The Nilgiris District.
- 4.Thiru Arul,
Former Headmaster,
St.Antony's Higher Secondary School,
Coonoor 643 101.
The Nilgiris District.



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5.Thiru.A.Thomas Anto Samuel,
B.T.Assistant,
St.Antony's Higher Secondary School,
Coonoor 643 101.
The Nilgiris District. ...

Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records pertaining to the orders passed by the 2nd respondent in Na.Ka.No.6023/A5/2018 dated.09.2018 and the order in Na.Ka.No.6023/A5/2017 dated 22.10.2018 quash the same, and direct the respondents to reinstate the petitioner as BT Assistant and approve her appointment with effect from 1.6.2002 and confer all the consequential benefits.

For Petitioner : Ms.Thendral for M/S.P.Ganesan

For Respondents : Mrs.P.Rajarajalakshmi,
Government advocate for R1 & R2
:M/s.A.Jenitha Mary for R3
: M/s.B.Balanjagan for R4
:Dr.Fatherseavier, senior counsel for
M/s.Fathersevier Associates for R5

ORDER

The writ petition has been filed to call for the records pertaining to the orders passed by the 2nd respondent in Na.Ka.No.6023/A5/2018 dated.09.2018 and the order in Na.Ka.No.6023/A5/2017 dated 22.10.2018 quash the same and direct the respondents to reinstate the petitioner as BT Assistant and approve her



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appointment with effect from 1.6.2002 and confer all the consequential benefits.

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2. Heard Ms.Thendral, learned counsel for the petitioner, Mrs.P.Rajarajalakshmi ,learned government advocate for the respondents 1 and 2, M/s.A.Jenitha Mary, learned counsel for the third respondent, M/s.B.Balanjagan, learned counsel for the fourth respondent and Dr.Fatherseavier, learned senior counsel for the fifth respondent and perused the materials available on record.

3. On 01.06.2002, the petitioner was appointed as B.T.Assistant in the 3rd respondent school in a regular sanctioned post. On 02.06.2008, she was orally terminated without getting approval from the department. The petitioner has filed a writ petition in [WP.No.15320/2008](#) by challenging the termination. The order has been passed on 23.9.2008 in the said writ petition to consider the petitioners' representation. In the meanwhile, the 3rd respondent has promoted and appointed the 5th respondent as B.T. Assistant in the vacancy of one Sundhar Singh Prem Kumar. but actually the petitioner was alone appointed in the vacancy of Sundhar Singh Prem Kumar on 1.6.2002 itself. The petitioner's representation was rejected by stating that there was no vacancy and passing an order on 08.11.2008.



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The petitioner filed another writ petition in [WP.No.2700/2009](#) challenging the said order and the said petition was also dismissed on 23.03.2010. The review application filed subsequently was allowed on 8.9.2017, and direction has been given to the 3rd respondent to send the proposal to the 2nd respondent to get his approval. The 3rd respondent sent the proposal to the 2nd respondent on 21.12.2017 and the 2nd respondent rejected the proposal, stating that there was no vacancy.

4. The learned counsel for the petitioner submitted that the petitioner has been appointed only in a sanctioned post, and without any reason, she was terminated from service. In fact, in the earlier writ petition, a direction has been given to the 3rd respondent to send the proposal to the 2nd respondent for getting sanction. As the 2nd respondent has wrongly rejected the proposal on the ground that there was no vacancy despite the petitioner having been appointed in the existing vacancy that arose in the place of Sundhar Singh Prem Kumar, it is unfair for the 2nd respondent to reject the proposal.

5. It is further submitted that the 5th respondent was originally appointed as a Secondary Grade Teacher, and he was promoted to B.T. Assistant in the



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vacancy caused by Sundhar Singh Prem Kumar, who was BT Assistant then.

However, his appointment was kept in abeyance due to the writ petition filed by the petitioner. The writ petition that was filed by the petitioner in W.P.2700/2009 was dismissed on 23.3.2010. And thereafter the 5th respondent's appointment was approved by the department on 2.3.2015 with effect from 23.3.2010. The petitioner belatedly filed the review petition in [W.P.No.2700/2009](#), and at that point of time the petitioner was relieved, and he was never in service.

6. It is seen from the order passed in the review application in [R.A.No.131/2017](#) in [WP.No.2700/2009](#) that there is no observation as to the entitlement of the petitioner to get sanction to their appointment as BT Assistant against the alleged sanctioned vacancy.

7. It is submitted by the learned government advocate for the respondents 1 & 2 that the petitioner has all along been working as a management staff, and she had not been absorbed in a regular vacancy. The 5th respondent is said to have been appointed against the sanctioned post of B.T. Assistant which arose due to the death of Sundar Singh Premkumar in the year 2006. It is for the petitioner to prove that a sanctioned post was available in the year 2002. As the petitioner has



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not been appointed against the sanctioned vacancy in the year 2002, the 2nd respondent could not grant approval, and the proposal was rejected.

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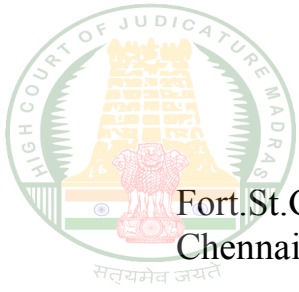
In view of the above stated reasons, I do not find any merit in the grounds raised by the petitioner. Hence, the writ petition is **dismissed**. No costs. Consequently, the connected miscellaneous petition, if any, is also closed.

26.03.2025

Index : Yes
Internet : Yes/No
Speaking : Non Speaking Order
Neutral: yes/No
jrs

To
1.The Secretary,
State of Tamil Nadu,
Education Department,

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Fort.St.George,
Chennai 600 009.



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2. The District Educational Officer,
Arignar Anna Campus,
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R.N.MANJULA, J.
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