



W.P.(MD)No.416 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2025

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THE HONOURABLE MR. JUSTICE BATTU DEVANAND

W.P.(MD)No.416 of 2025

and

W.M.P(MD).Nos.271 & 272 of 2025

A.George

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep., by its Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai - 600 009.
2. The District Educational Officer (Elementary),
O/o. the District Educational Office,
Palani Road,
Dindigul,
Dindigul District.
3. The Block Educational Officer - I,
O/o. the Block Educational Officer,
Natham,
Dindigul District
4. The Correspondent,
R.C. Sirumalar Primary School,
Natham,
Dindigul District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd Respondent in his proceedings in न.क.गण.224/अ5/2022 dated 18.03.2024 and quash the same as illegal and consequentially to direct the Respondents to approve the appointment of the Petitioner as Secondary Grade Teacher in the 4th Respondent school w.e.f., 07.12.2017 with arrears of salary and all other monetary benefits.

For Petitioner : Mr.A.Nawazkhan

For Respondent Nos.1to 3 : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

Heard Mr.A.Nawazkhan, learned counsel appearing for the petitioner, Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing for the respondents and carefully perused the materials available on record.

2. This writ petition has been filed for a writ of Certiorarified Mandamus to quash the impugned proceedings passed by the second respondent / District Educational Officer dated 19.11.2024 in Na.Ka.No.3079/A4/2024 and the consequential proceedings of the second respondent / District Educational Officer in Na.Ka.No.224/A5/2022 dated 18.03.2024 and further direct the third

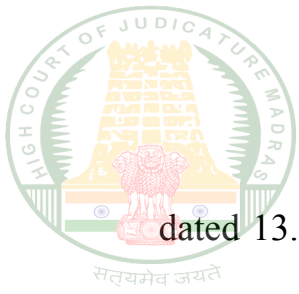


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respondent/Block Educational Officer-I to approve the appointment of the petitioner, as Secondary Grade Teacher in the fourth respondent school w.e.f. 07.12.2017 with salary, allowances and all attendant benefits including arrears of salary.

3. The fourth respondent school has appointed one A.George as Secondary Grade Teacher. Due to the death of the then incumbent namely J.James on 13.11.2017, the petitioner was appointed as the Secondary Grade Teacher on 07.12.2017, in the place of said J.James. When the School submitted a proposal for approval of appointment of the petitioner, the same was returned by the second respondent vide order dated 23.02.2018, stating that the petitioner not completed the Teachers Eligibility Test. Thereafter, the fourth respondent school sent a fresh proposal for the approval of the petitioner's appointment as Secondary Grade Teacher. However, the same was returned stating that surplus post has to be filled up in the Corporate Management. However, there was no response.

4. In such circumstances, the petitioner has filed a writ petition in W.P.(MD)No.5352 of 2018, seeking approval of appointment of the petitioner as Secondary Grade Teacher with effect from 07.12.2017. This Court vide order

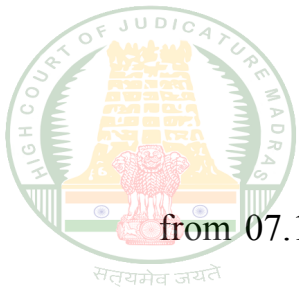


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dated 13.08.2023 allowed the writ petition by directing the respondents therein to approve the appointment of the petitioner as Secondary Grade Teacher.

Against which the respondents have preferred an appeal in Writ Appeal (MD).No.2175 of 2023 and at the time of argument, the official respondents on instructions submitted that the matter may be remitted back to the Department for passing orders afresh by following instructions under paragraph 95(u) and (v) of the orders of this Hon'ble Court dated 31.03.2021 in W.A.(MD).No.76 of 2019, etc., batch. Considering the said request, the Hon'ble Division Bench of this Court vide order dated 21.12.2023 allowed the writ appeal by remitting the matter back to the respondents for fresh consideration. However, the second respondent vide proceedings in Na.Ka.No.224/A5/2022 dated 18.03.2024 declined to approve the appointment of the petitioner as Secondary Grade Teacher stating that there were surplus Secondary Grade Teacher in the other schools under the very same management and the school ought to have filled the post with the surplus teachers. Therefore, the petitioner is constrained to file the present writ petition

5. The reason for rejecting the approval is concerned, it is about the availability of surplus teachers working in the other schools under the same management. The petitioner appointed as Secondary Grade Teacher with effect 4/10



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from 07.12.2017. According to the petitioner, the surplus teachers working in the other schools coming under the same management will no way impeditment in approving the appointment made against the sanctioned posts. Hence, the petitioner has appointed as Secondary Grade Teacher on which date the Secondary Grade Teacher post was very much a sanctioned vacancy. Hence, the reason for rejection of the approval of appointment made by the fourth respondent School on the ground that the school ought to have filled the sanctioned post with the surplus teachers is also not valid.

6. In respect of applicability of the cut off date for appointment, it is relevant to rely on the judgment of this Court held in W.P.(MD)No.7479 of 2024 dated 17.04.2024, wherein in paragraph Nos.4, 5 & 6 it is held as follows:

"4. However, the learned counsel for the petitioner attracted the attention of this Court to the judgment passed by the Division Bench of this Court in W.A.(MD).No.2119 of 2021 dated 23.06.2023 in the case of The Commissioner of School Education, Vs Aided Muslim Committee Primary School, Rep. by its Correspondent, S.Sheik Shajakhan Sithik, wherein it is held as under:



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“8. Moreover, the said G.O., was issued only on 17.09.2019, whereas the teacher was appointed well before the issuance of the said G.O., ie., 03.07.2018. Therefore, assuming if the said G.O., ultimately would be declared to be valid, that will have a prospective effect. Moreover, as on today, the said G.O., is no more available to the appellant department to say the reason that by virtue of G.O.Ms.No.165, the appointment made in respect of the teacher concerned at the 1st respondent school cannot be approved. 9. In that view of the matter, we have no hesitation to hold that the order impugned passed by the learned Single Judge is perfectly valid and therefore, it is to be sustained. In the result, this Writ Appeal fails, therefore, it is to be dismissed, accordingly, it is dismissed. As a sequel, there shall be a direction to the appellant Department to approve the appointment of the teacher concerned in the 1st respondent School and extend all service benefits from the date of such appointment to the teacher concerned within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.” 5. The learned counsel for the petitioner also submitted that the Government Order in G.O.Ms.No.165 dated 17.09.2019 has been kept inoperative in W.A.(MD).No.76 of 2019 batch dated 31.03.2021 in the case of The Secretary to Government Government of Tamil Nadu School Education Department, Fort St. George, Chennai – 9 vs Iruthaya Amali and the relevant portion of the order is extracted hereunder:



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“95. In view of the aforesaid discussions, we are inclined to pass the following orders in this batch of cases :

....

(o) In view of the aforesaid, the G.O.Ms.No. 165, School Education [Tho.Ka.2(1)] Department, dated 17.09.2019 is hereby declared to be inoperative.”

6. The petitioner's appointment has been made prior to the order dated 31.03.2021 passed in W.A.(MD).No.76 of 2019 batch. Hence, the petitioner School can get the advantage of getting approval of the appointment of Sunitha as B.T.Assistant Tamil. Therefore, the respondents cannot decline the approval of the appointment due to the reasons of TET eligibility or the deployment of the alleged surplus.”

7. Since the above analogy is applicable to the situation that has arisen in this case, the impugned order is liable to be set aside, the petitioner is also entitled for the same relief.

8. In view of the above reasons, this writ petition is allowed and the impugned order is set aside. The respondents 2 and 3 are directed to pass orders to grant approval of appointment of the petitioner as Secondary Grade Teacher in the fourth respondent School with effect from 07.12.2017 and disburse salary, allowances and all attendant benefits including salary within a period of eight weeks from the date of receipt of a copy of this order.



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There shall be no order as to Costs.

Consequently, connected miscellaneous petitions are closed.

19.03.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
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To:

1. The Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai - 600 009.
2. The District Educational Officer (Elementary),
O/o. the District Educational Office,
Palani Road,
Dindigul,
Dindigul District.
3. The Block Educational Officer - I,
O/o. the Block Educational Officer,
Natham,
Dindigul District
4. The Correspondent,
R.C. Sirumalar Primary School,
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BATTU DEVANAND, J.

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