

W.A(MD) No.143 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 09.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD) No.143 of 2023
&
C.M.P.(MD)No.1922 of 2023**

K.S.Thirunavukkarasu

...Appellant / Writ Petitioner

Vs

**1.The State of Tamil Nadu,
Rep. by its Secretary,
School Education Department,
Secretariat,
Chennai.**

**2.The Director of Elementary Education,
Chennai.**

**3.The District Elementary Educational Officer,
O/o the District Elementary Educational Office,
Karur.**

**4.The Additional Assistant Elementary Educational Officer,
O/o the Assistant Elementary Educational Office,
Krishnarayapuram Union,
Karur District.**

... Respondents / Respondents



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 15.11.2022 passed by the learned Judge in W.P.(MD)No.847 of 2017 and allow the writ appeal.

For Appellants : Mr.M.E.Ilango

For Respondents : Mr.C.Venkatesh Kumar
Special Government Pleader

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

This writ petition is directed against the order dated 15.11.2022 made in W.P.(MD)No.847 of 2017 filed by the appellant herein. The appellant herein enrolled himself with the District Employment Exchange, Karur on 05.04.2004. He was eligible to be appointed as secondary grade teacher. During the relevant time, the appointment to the said post was made on the basis of district seniority. When the appointments were made in the year 2007, the appellant's name was inadvertently omitted to be sponsored. On the other hand, his juniors were appointed to the said post. Challenging his omission and selection



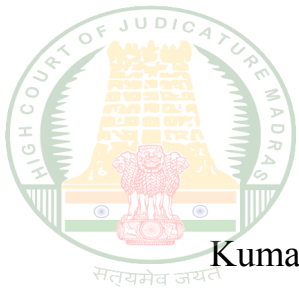
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of his juniors, the appellant filed W.P.(MD)No.7676 of 2008. The writ petition came to be allowed vide order dated 27.03.2015. Pursuant to the said direction, the appellant was also appointed as secondary grade teacher vide order dated 29.10.2015 by the DEO, Karur. After joining, the appellant demanded that his seniority should be reckoned with effect from the date of appointment of his juniors. His request was rejected by the Additional Elementary Officer, Krishnarayapuram Union, vide order dated 16.09.2016. Challenging the same, the appellant filed W.P. (MD)No.847 of 2017. The writ petition was dismissed by the learned single Judge vide order dated 15.11.2022 in the following terms:-

“9.This Court is of the considered opinion that since the petitioner was not in service for the period from 2008 till his appointment in the year 2015, he is not entitled to service benefits. If the claim of the petitioner is entertained to the period prior to the date of his appointment order, then absurd situation would arise that without being in service, the benefits would have been granted. Therefore, this writ petition cannot be entertained.”

Challenging the same, this writ appeal came to be filed.

2. The learned counsel appearing for the appellant relied on the decision made in W.P.(MD)No.2351 of 2021, dated 15.06.2023 (T.Selva



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Kumar Vs. Teacher Recruitment Board authored by one of us (GRSJ)).

He submitted that the equity is on the side of the appellant. He pointed out that in all fairness, the appellant should have been appointed in the year 2008 itself. He had come to this Court immediately. The writ petition came to be disposed of only in the year 2015. The appellant cannot be blamed for the said delay in disposing of the writ petition. He submitted that when once this Court had come to the conclusion that omission to appoint him was illegal, the resulting injustice ought to be undone by granting benefit from the date when his juniors came to be appointed. The learned counsel for the appellant is also willing to forego the monetary benefits. All that the appellant requests is that his seniority should not be denied.

3. No doubt, the contentions of the learned counsel appearing for the appellant are quite persuasive. But then, we are unable to grant to the said request for more than one reason. It is true that in similar circumstances, one T.Selvakumar was granted relief by one of us (GRSJ) in W.P.(MD)No.2351 of 2021, dated 15.06.2023 . It is relevant to note that Selvakumar was granted relief in the first round itself.



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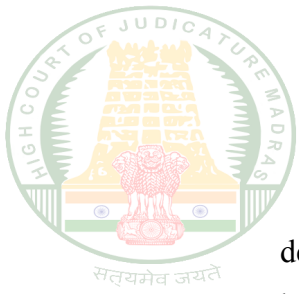
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4. In the case on hand, the writ petitioner had earlier filed W.P. (MD)No.7676 of 2008. The writ petition was allowed on 27.03.2015 in the following terms:-

“19. For the reasons stated above, this writ petition is allowed directing the respondents 1 to 3 to consider the claim of the petitioner based on the certificate verification held on 26.02.2008 and 25.03.2008 and issue orders appointing the petitioner as Secondary Grade Teacher, within a period of six weeks from the date of receipt of a copy of this order.”

5. It is relevant to note that the appellant ought to have obtained the relief similar given to Selvakumar in the first round itself. The order dated 29.10.2015 granting appointment to the appellant also states that the appellant will be entitled to all the benefits with effect from the date he joined in service. Admittedly, the appellant had joined in service only in the year 2015. The learned Special Government Pleader relied on the decision reported in **(2022) 1 SCC 352 (Sudhir Kumar Atrey Vs. Union of India and others)**. The Hon'ble Supreme Court had held as follows:-

“18. We are also of the view that in the matter of adjudging seniority of the candidates selected in one and the same selection, placement in the order of merit can be adopted as a principle for



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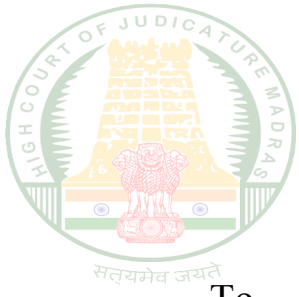
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determination of seniority but where the selections are held separately by different recruiting authorities, the principle of initial date of appointment/continuous officiation may be the valid principle to be considered for adjudging inter se seniority of the officers in the absence of any rule or guidelines in determining seniority to the contrary.”

6. We are therefore of the view that the learned single Judge rightly held that the seniority of the appellant can be reckoned only from the date he joined in service and not from any previous date. We are unable to fault the approach adopted by the learned single Judge. The decision of the Hon'ble Supreme Court clearly applies to the case on hand. The appellant ought to have mounted an appropriate challenge in the earlier round itself. Having failed to do so, it is too late in a day to set right the matters. Though our sympathy lies with the appellant, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (K.R.S., J.)
09.06.2025

Index : Yes / No
Internet : Yes / No
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To

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School Education Department,
Secretariat,
Chennai.
- 2.The Director of Elementary Education,
Chennai.
- 3.The District Elementary Educational Officer,
O/o the District Elementary Educational Office,
Karur.
- 4.The Additional Assistant Elementary Educational Officer,
O/o the Assistant Elementary Educational Office,
Krishnarayapuram Union,
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