

W.P.(MD)No.4591 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2025

CORAM:

THE HON'BLE MR.JUSTICE BATTU DEVANAND

W.P.(MD).No.4591 of 2025

R.Priyatharshini

... Petitioner

Vs.

1. The Director of Elementary School Education,
D.P.I Compound,
College Road,
Chennai.
2. The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
3. The District Educational Officer (Elementary),
Tirunelveli,
Tirunelveli District.
4. The Block Educational Office,
Tirunelveli,
Tirunelveli District.
5. The Correspondent,
STC Branch Upper Clapton Middle School,
Tirunelveli Town,
Tirunelveli District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in respect of order passed by the 3rd respondent in Na.Ka.No. 1971/Aa5/2024 dated 07.10.2024 in so far as granting approval from 20.04.2023 and condition No.3 and quash the same as illegal and consequently direct the 3rd respondent to approve the appointment of the petitioner from 15.10.2015 and disburse all the service and monetary benefits.

For Petitioner	: M/s.S.Chellapandian
For R1 to R4	: Mr.M.Siddharthan Additional Government Pleader
For R5	: No Appearance

ORDER

The instant writ petition has been filed by the Secondary Grade Teacher appointed in the fifth respondent School, challenging the order passed by the third respondent on 07.10.2024, wherein the approval was granted only from 20.04.2023 instead of 15.10.2015.

2. According to the learned counsel appearing for the writ petitioner, the petitioner was appointed as Secondary Grade Teacher in the fifth respondent School on 15.10.2015. The proposal to grant approval of the appointment of the petitioner was forwarded by the management to the

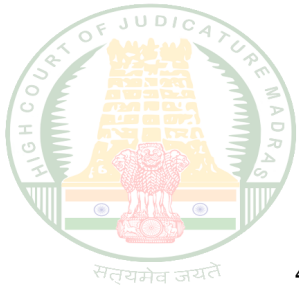


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third respondent. The third respondent, instead of granting approval from the date of appointment, (i.e) 15.10.2015, vide impugned order dated 07.10.2024 granted the approval only from 20.04.2023 on the ground that there were surplus Secondary Grade Teachers prior to 20.04.2023.

3. According to the learned counsel for the petitioner, the respondent School is an Aided Minority Institution administered by a Corporate Management. Prior to the decision of the Hon'ble Division Bench of this Court in W.A.No.76 of 2019, dated 31.03.2021, staff fixation orders were issued based on the student strength of each School and surplus Teachers were identified only based on the student strength of each School. The concept of Corporate surplus was introduced only in the orders of the Hon'ble Division Bench in W.A.No.76 of 2019 dated 31.03.2021. When the appointment of the petitioner has been made prior to the orders of the Hon'ble Division Bench dated 31.03.2021, the authorities are excepted to consider the fact that whether the appointment is within the staff fixation order for the fifth respondent School or not.



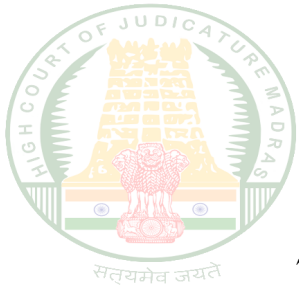
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4. Per contra, the learned Additional Government Pleader appearing for the official respondents 1 to 4 herein had contended that the fifth respondent School having been administered by a Corporate Management, if there are surplus Graduate Teachers in the other School falling within the same management, without deploying those Teachers, any fresh appointment of a Secondary Grade Teacher cannot be approved.

5. I have carefully considered the submissions made on either side and perused the materials placed on record.

6. As rightly pointed by the learned counsel for the petitioner, the concept of corporate surplus was introduced by the Hon'ble Division Bench for the first time in W.A.No.76 of 2019 dated 31.03.2021. Before that, the authorities as well as the concerned Schools were following G.O.Ms.No. 525, School Education (D1) Department, Dated 29.12.1997, wherein there is no whisper about the corporate surplus. In such circumstances, if any appointment is made prior to 31.03.2021, the authorities are expected to grant approval to the appointment of Teachers, provided the appointment is within the staff fixation order for the relevant School in the relevant academic year.



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7.As far as the present case is concerned, one Secondary Grade Teacher post has been sanctioned under the staff fixation order for the academic year 2015-2016 for the fifth respondent School. It is not in dispute that the petitioner has been appointed to the said post. In such circumstances, there are no surplus Secondary Grade Teacher as per the staff fixation year for the fifth respondent school.

8. In view of the above, the order impugned in the writ petition is set aside insofar as it denies approval from 15.10.2015 onwards is concerned and this writ petition is allowed. The third respondent is directed to revise the approval order granting approval to the appointment of the writ petitioner with effect from 15.10.2015 onwards. The said exercise shall be completed within a period of 4 weeks from the date of receipt of a copy of this order.

No costs.

17.03.2025
(1/2)

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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BATTU DEVANAND, J.

rgm

To

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