



W.P.(MD)No.6534 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.03.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

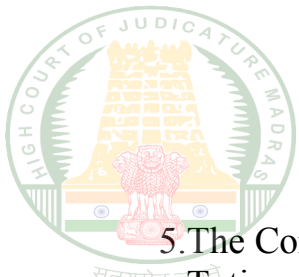
W.P.(MD)No.6534 of 2025
and
W.M.P(MD)No.4798 of 2025

J.Suba Jasmine

... Petitioner

Vs.

- 1.The Director of Elementary Education,
Samagra Shiksha, Tamil Nadu,
P.A.K.Valagam,
College Road,
Nungambakkam,
Chennai - 600 006.
- 2.The District Elementary Educational Officer,
Kovilpatti Educational District,
Kovilpatti – 628501,
Thoothukudi District.
- 3.The Block Educational Officer – II,
Vilathikulam,
Vilathikulam Taluk,
Thoothukudi District – 628907.
- 4.The Manager,
Tuticorin Nazareth Diocese TNDTA Primary Schools,
Tuticorin,
Tuticorin District – 628001.



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5. The Correspondent,

Tuticorin Nazareth Diocese TNDTA Primary Schools,
Vembar at Nagalapuram,
Tuticorin District – 628904.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order, dated 21.08.2024 passed by the second respondent in Na.Ka.No. 678/A1/2024, and quash it as illegal insofar as the date of approval of the petitioner's appointment to the post of Secondary Grade Assistant Teacher ie., 07.08.2023 and consequently directing the second respondent to accord the approval to the petitioner's appointment with effect from the date of the petitioner's joining i.e., 29.07.2017.

For Petitioner : Mr.P.Jeyasankar

For R1 to R3 : Mr.M.Siddharthan
Additional Government Pleader

ORDER

The instant writ petition has been filed by the Secondary Grade Assistant Teacher appointed to the respondent School, challenging the order passed by the second respondent on 21.08.2024, wherein the approval was granted only from 07.08.2023 instead of 29.07.2017.

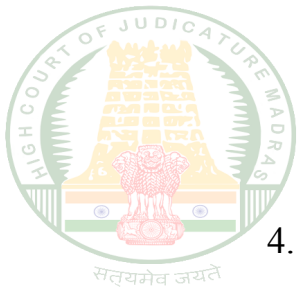
2. According to the learned counsel appearing for the writ petitioner, the petitioner was appointed as Secondary Grade Assistant Teacher in the



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respondent School on 29.07.2017 and when the proposal was forwarded by the management to the second respondent, under the impugned order dated 21.08.2024, instead of granting approval from the date of appointment, (i.e) 29.07.2017, the approval has been granted only from 07.08.2023 on the ground that there were surplus secondary Teachers prior to 07.08.2023.

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 third respondent School or not.



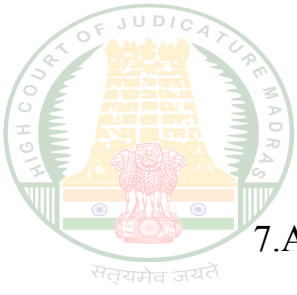
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4. Per contra, the learned Additional Government Pleader appearing for

the official respondents herein had contended that the respondent School having been administered by a Corporate Management, if there are surplus Secondary Grade Teachers in the other School falling within the same management, without deploying those Teachers, any fresh appointment of a Secondary Grade Assistant 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.



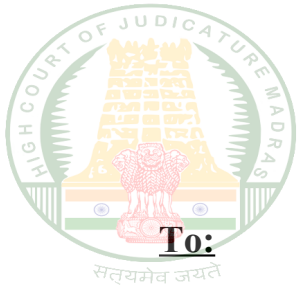
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7.As far as the present case is concerned, one secondary Grade Assistant Teacher post has been sanctioned under the staff fixation order for the academic year 2017-2018 for the respondent School. It is not in dispute that the petitioner has been appointed to the said post. In such circumstances, there are no surplus Teachers as per the staff fixation year for the respondent school.

8. In view of the above, the order impugned in the writ petition is set aside insofar as it denies approval from 29.07.2017 onwards is concerned and this writ petition is allowed. The second respondent is directed to revise the approval order granting approval to the appointment of the writ petitioner with effect from 29.07.2017 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. Consequently, the connected miscellaneous petition is closed.

12.03.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
Sn



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BATTU DEVANAND, J.

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