

W.P.(MD)No.5891 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.5891 of 2025

and

W.M.P(MD)Nos.4291 and 4292 of 2025

K.Vasantha Kumar

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep by its Secretary,
Department of School Education,
Fort St.George, Chennai – 600 009.
- 2.The Director of School Education,
College Road,
Chennai – 600 006.
- 3.The Chief Educational Officer,
Thoothukudi – 628 003,
Thoothukudi District.
- 4.The District Educational Officer (Elementary Education),
Thoothukudi, Thoothukudi District.
- 5.The Block Educational Officer - II,
Vilathikulam, Thoothukudi District.
- 6.The Correspondent,
TNDTA Middle School,
Vilathikulam,
Thoothukudi 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 proceedings issued by the fourth respondent DEO in Pa.Mu.No. 676/A1/2024, dated 21.08.2024 and quash the same in so far as it restricts the approval of the appointment of petitioner only with effect from 07.08.2023 instead of from the actual date of appointment viz.,28.07.2017 and further direct the respondents 3 and 4 to approve forthwith the appointment of the petitioner as B.T.Assistant (Science) in the sixth respondent school with effect from the actual date of his appointment viz.,28.07.2017 with all attendant benefits including the arrears of salary and allowances.

For Petitioner : Mr.I.G.Ivyn
For M/s.Issac Chambers

For R1 to R5 : Mr.T.Amjad Khan
Government Advocate

ORDER

The instant writ petition has been filed by the Graduate Teacher appointed in the sixth respondent School, challenging the order passed by the fourth respondent on 21.08.2024, wherein the approval was granted only from 07.08.2023 instead of 28.07.2017.

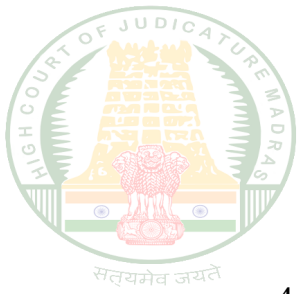
2. According to the learned counsel appearing for the writ petitioner, the petitioner was appointed as Graduate Teacher in the sixth respondent School on



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28.07.2017. The proposal to grant approval of the appointment of the petitioner was forwarded by the management to the fourth respondent. The fourth respondent, instead of granting approval from the date of appointment, (i.e) 28.07.2017, vide impugned order dated 21.08.2024 granted the approval only from 07.08.2023 on the ground that there were surplus Secondary Grade 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 sixth respondent School or not.



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4. Per contra, the learned Government Advocate appearing for the official respondents herein had contended that the sixth respondent School having been administered by a Corporate Management, if there are surplus Graduate Teacher in the other School falling within the same management, without deploying those Teachers, any fresh appointment of a Graduate 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 Graduate Teacher post has been sanctioned under the staff fixation order for the academic year 2017-2018 for the sixth respondent School. It is not in dispute that the petitioner has been appointed to the said post. In such circumstances, there are no surplus Graduate Teachers as per the staff fixation year for the sixth respondent school.

8. In view of the above, the order impugned in the writ petition is set aside insofar as it denies approval from 28.07.2017 onwards is concerned and this writ petition is allowed. The fourth respondent is directed to revise the approval order granting approval to the appointment of the writ petitioner with effect from 28.07.2017 onwards. The said exercise shall be completed within a period of 4 weeks from the date of receipt of a copy of this order.

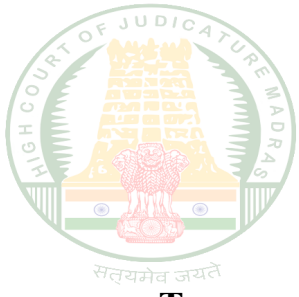
No costs.

Consequently, the connected miscellaneous petitions are closed.

13.03.2025

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

5/7



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To:
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BATTU DEVANAND, J.

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