

**W.A(MD) No.1486 of 2025**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**Dated : 16.06.2025**

**CORAM**

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

**W.A(MD) No.1486 of 2025**

**&**

**C.M.P.(MD)No.8648 of 2025**

1.The State of Tamil Nadu,  
Represented by its Secretary,  
School Education Department,  
Fort St.George, Chennai-600 009.

2.The Director of School Education,  
College Road, Chennai-600 006.

3.The Chief Educational Officer,  
Kanyakumari at Nagercoil,  
Kanyakumari District.

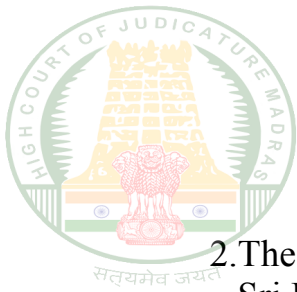
4.The District Educational Officer,  
Kuzhithurai at Marthandam,  
Kanyakumari District-629 165.

... Appellants 1 to 4  
/ Respondents 1 to 4

**Vs**

1.S.Sathi Kumari Amma

... 1<sup>st</sup> Respondent / Writ Petitioner



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2. The Secretary,  
Sri Devi Girls Higher Secondary School,  
Kollemcode and Post,  
Kanyakumari District.

... 2<sup>nd</sup> Respondent / 5<sup>th</sup> Respondent

**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 10.04.2024 in W.P.(MD)No.8877 of 2024 on the file of this Court.

For Appellants : Mr.C.Venkatesh Kumar

For Respondents : Mr.C.Kishore  
for R1

**ORDER**

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

Heard both sides.

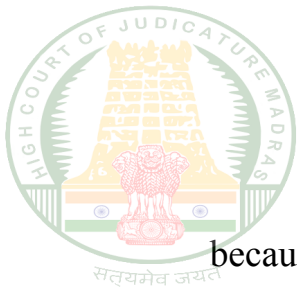
2. This writ appeal has been preferred by the State questioning the order dated 10.04.2024 allowing W.P.(MD)No.8877 of 2024 filed by the first respondent herein.



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3. The first respondent herein was appointed as P.G.Assistant (Chemistry) on 07.10.1992 in Sri Devi Girls Higher Secondary School, Kollamkode, Kanyakumari District by the school management. It is necessary to note here that during the relevant time, there was no sanctioned post of P.G.Assistant (Chemistry). In other words, Sathi Kumari Amma / writ petitioner herein was appointed against the non-sanctioned post. The post of PG Assistant came to be sanctioned only in the year 1999. G.O.Ms.No.257, dated 18.08.1999 came to be issued and the writ petitioner's appointment as P.G.Assistant (Chemistry) was sanctioned with effect from 01.08.1999. The petitioner herein sought approval of her appointment with effect from 07.10.1992. This request was rejected by the District Educational Officer, Kuzhithurai vide order dated 23.01.2024. Challenging the same, W.P.(MD)No.8877 of 2024 was filed. The learned single Judge set aside the order and allowed the writ petition.

4. The only question that calls for consideration is whether the learned single Judge was justified in granting relief sought for by the writ petitioner. The answer has to be necessarily in the negative. This is



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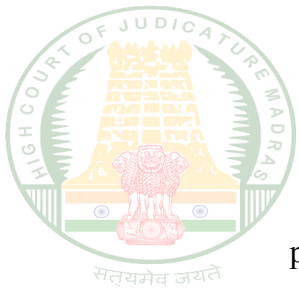
because, the issue had already been decided and concluded. Sathi Kumari

Amma / writ petitioner herein had earlier filed W.P.(MD)No.3210 of 2012 for the very same relief. The writ petition was dismissed. Challenging the same, Sathi Kumari Amma filed W.A.(MD)No.311 of 2013. The said writ appeal was dismissed by the Hon'ble Division Bench in the following terms:-

“2. The writ petitioner was appointed as P.G.Assistant (Chemistry) on 07.10.1992 in the fifth respondent school. It is an admitted fact that though the post of P.G.Assistant (chemistry) was sanctioned for the said school on 20.08.1980, because of the non utilisation of the said post, the same was resumed on 13.03.1981. This was on account of certain internal disputes in the school management.

3. It is admitted that the said post of P.G.Assistant (Chemistry) was re-allotted to the fifth respondent school only on 18.08.1999 vide G.O.Ms.No.257, School Education (Hr.Sec.Edn.2) Department. The writ petitioner's appointment was therefore approved only with effect from the said date ie., on 01.08.1999. The writ petitioner aggrieved by the non approval of her service from 07.10.1992 til 31.07.1999 filed W.P.(MD)No.3210 of 2012. The said writ petition was dismissed on 04.02 2013. Aggrieved by the same, this intra-Court appeal has been filed.

4. The writ petitioner was allowed to amend the prayer in this writ petition during the pendency of this writ appeal, but grant of such such permission to amend the writ prayer during the



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pendency of the writ appeal will not improve the case of the appellant. The fact remains that when she was appointed as P.G.Assitant (Chemistry), there was no sanctioned post.

5. The sanction for the post came only in the year 1999. In fact this issue had already attained finality in W.P.No.10862 of 2001. The said writ petition was filed by the appellant herein and by order dated 26.06.2001, a direction was given for considering her representation dated 18.08.1999 and pass necessary orders approving her appointment to the post of P.G.Assistant (Chemistry) with effect from 01.08.1999 and grant all consequential benefits from the said date.

6. The rights of the writ petitioner are governed by the said G.O.Ms.No.257, dated 18.08.1999. She cannot travel beyond it. Therefore, the claim of the writ petitioner for direction to sanction the post of PG Assistant (Chemistry) in the fifth respondent school fro the period 07.10.1992 till 31.07.1999 is clearly not maintainable. Admittedly, there was no challenge of G.O.Ms.No. 257 dated 18.08.1999.

7. This Court will have to take into account the position that prevailed when the writ petitioner was appointed originally. The writ petitioner / appellant would fairly concede that at the time of her appointment, there was no sanctioned post of P.G.Assistant (Chemistry), but sought for sanctioning of such post from the date of her appointment. Only if sanctioned post was there, the writ petitioner can derive any right. When the sanctioned post was not there, the writ petitioner cannot claim any such right.

8. We concur with the reasons assigned by the learned single Judge for dismissing the writ petition and we find no merit in the writ appeal. Therefore, this writ appeal is dismissed.”



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5. When the issue has already thus attained finality, the doctrine of *res judicata* forbids the writ petitioner from agitating the issue once again. The learned counsel for the writ petitioner however made a valiant attempt to justify the order of the learned single Judge. He pointed out that one similarly placed teacher by name Prabhakumari had filed W.P.No.29740 of 2025 and got relief. According to the learned counsel, Prabhakumari's demand was also similar to that of Sathi Kumari Amma. We are not swayed by the said submission. Prabhakumari had challenged G.O.Ms.No.180, School Education Department, dated 30.05.2005. Sathi Kumari Amma never challenged G.O.Ms.No.257, dated 18.08.1999. Finally, the Division Bench in the earlier round had held against the petitioner. The learned single Judge could not have ignored the doctrine of *res judicata*. The order impugned in the writ appeal is set aside.



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WEB COPY 6. The writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (K.R.S., J.)  
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**AND**

**K.RAJASEKAR, J.**

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