



W.P.(MD)No.8935 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2025

WEB COPY

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.8935 of 2019

and

W.M.P.(MD)No.21482 of 2023

T.Premkumar

... Petitioner

Vs.

1.The District Elementary Education Officer,
Usilampatti, Madurai District.

2.The Block Elementary Education Officer,
Usilampatti,
Madurai District.

3.The Correspondent,
TELC Middle School,
Keelapudur, Usilampatti,
Madurai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first and second respondents to dispose of the petitioner's representation dated 16.11.2017 submitted for approval of the petitioner's appointment in the post of secondary Grade Assistant in the light of appointment order dated 13.07.2010 and consequently disburse the salary of the petitioner for the period he had worked at the third respondent school without any break from 06.08.2010 to 21.11.2015 within a time frame as fixed by this Court.



WEB COPY



W.P.(MD)No.8935 of 2019

For Petitioner : Mr.B.Prahalad Ravi
For R1 & R2 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.
For R3 : No Appearance

ORDER

This writ petition has been filed to direct the first and second respondent to dispose of the representation dated 16.11.2017 submitted for approval of the petitioner's appointment in the post of Secondary Grade Assistant.

2.The case of the petitioner is that the petitioner was appointed in the post of Secondary Grade Assistant in the third respondent School through proceedings dated 13.07.2010 passed by the Education Board of TELC immediately in the vacant post arose on the transfer of one C.Jeyapraba. The third respondent School Management had sent a proposal along with appointment order of the petitioner for approval to the respondents 1 and 2. The respondents 1 and 2 are duty bound to consider the case of the petitioner for approval in the light of the proposal sent by the third respondent School dated 02.09.2010, 22.03.2012, 01.12.2014. The petitioner constrained to file a writ petition



W.P.(MD)No.8935 of 2019

in W.P.(MD)No.4575 of 2016 seeking for direction to dispose the representations sent by the third respondent. The said writ petition was allowed vide order dated 08.03.2016. Subsequently, the petitioner had sent a copy of the order to the first respondent to take immediate action for approval of his post. Since the first respondent had not taken any fruitful action in the manner known to law and due to the some family problems forced to leave the third respondent school by tendering his resignation and settled down at his native place in the year 2016. The petitioner learnt that the third respondent had appointed somebody in the place of the petitioner. Since the petitioner had continuously worked in the third respondent school in the post of Secondary Grade Assistant right from the date of his appointment ie., from 13.07.2010 up to June 2016 without any salary and was under the impression that the first respondent would approve his post, the petitioner is entitled for salary for the above said period. The petitioner sent representation dated 16.11.2017 to the respondents in person requesting to approve his appointment based on the appointment order dated 13.07.2010 and disburse salary for the period from 06.08.2010 to 21.11.2015. The respondents 1 & 2 have not taken any action in the manner known to law. Hence, the writ petition.



W.P.(MD)No.8935 of 2019

WEB COPY

3.The learned counsel appearing for the writ petitioner would submit that after the petitioner resigned his post, the third respondent had appointed somebody in the place of petitioner. Since the petitioner had continuously worked in the third respondent School from the date of his appointment till June 2016 without any salary, he is entitled to get salary for the said period. Though the petitioner had sent representation dated 16.11.2017, the respondents 1 and 2 have not taken any steps to consider the same.

4.Per contra, the learned Additional Government appearing for the first and second respondents would submit that the third respondent School has appointed the petitioner as Secondary Grade Assistant without getting prior permission and therefore, the appointment of the petitioner through direct recruitment is not proper. He would submit that the petitioner was appointed in the transfer vacancy post, due to transfer of one C.Jeyaprabha. Transfer vacancy is not a sanctioned vacancy and the petitioner was not appointed by the Management in the retirement or death vacancy. He would draw attention of this Court to the decision of this Court in W.P.(MD)No.12749 of 2022 dated 09.11.2022 to show that



W.P.(MD)No.8935 of 2019

when there are surplus teachers available, the Corporate management ought to have filled up in the resulting vacancies only by appropriately redeploying them. Instead they could not have gone for direct recruitment.

5.This Court has considered the rival submissions made on either side and perused the materials on record.

6.It is relevant to rely on the decision of the learned Single Judge of this Court in W.P.(MD)No.12749 of 2022 dated 09.11.2022 wherein it has been observed as hereunder:-

10.The learned Additional Government Pleader made available the details of the financial burden suffered by the State. As per the signed statement of the Block Educational Officer, Usilampatti issued on 07.11.2022, in the 7 schools run by TELC Corporate Management, there are 17 surplus teachers and that the Government has paid a sum of Rs. 1,24,31,819/- for the academic years 2021-2022. When there are surplus teachers available, the Corporate management ought to have filled up in the resulting vacancies only by appropriately redeploying them. Instead, they could not have gone for direct recruitment. By doing so, the Management is only adding financial



WEB COPY



W.P.(MD)No.8935 of 2019

burden to the State. This kind of approach cannot be appreciated. At the same time, the petitioner's condition must be noted. She did not make any misrepresentation. She was appointed by the school management and she is working as Secondary Grade Teacher for the last 12 years.

11. Therefore, the management has to necessarily pay salary due and payable to her. Even while sustaining the order impugned in the writ petition, I direct the third respondent to pay salary payable to the writ petitioner. The entire arrears shall be paid within a period of twelve weeks from the date of receipt of a copy of this order. Whether to continue the writ petitioner under their self financial scheme or not is left to the wisdom of the management.

7. In the light of the above circumstances, the first and second respondents are directed to consider the representation of the petitioner and pass orders in the manner known of law, within a period of twelve weeks from the date of receipt of a copy of this order. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

NCC : Yes / No
Index : Yes / No
gns

24.02.2025



W.P.(MD)No.8935 of 2019

WEB COPY

To

- 1.The District Elementary Education Officer,
Usilampatti, Madurai District.
- 2.The Block Elementary Education Officer,
Usilampatti,
Madurai District.



WEB COPY



W.P.(MD)No.8935 of 2019

M.JOTHIRAMAN, J.

gns

W.P.(MD)No.8935 of 2019

24.02.2025