

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2025

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THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.P.(MD)No.9403 of 2019

and

W.M.P(MD)Nos.7412 and 7430 of 2019

S.Virgin Panimalar

... Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Education Department, Secretariat, Chennai – 600 009.

2.The District Elementary Educational Officer,
Tirunelveli.

3.The Assistant Elementary Educational Officer,
Rathapuram.

4.The Manager,
R.C.School, Vallioor South Zone,
Fathima Church Compound, Vallioor - 17.

5.The Correspondent,
R.C.Periyanayaghi Vidhalayam Middle School,
Radhapuram – 17.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a **Writ of Certiorarified Mandamus**, calling for the records of the 2nd respondent in his proceedings in Order No.O.Mu.9424/A5/2004, dated 26.12.2001, and quash the same as illegal and consequently direct the respondents to regularize the petitioner's service.



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For Petitioner : Mr.S.Balaji

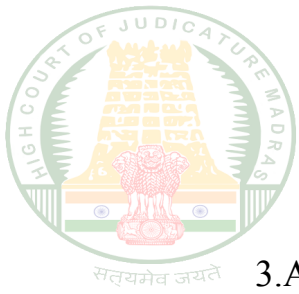
For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
for R1 to R3
Mr.V.John Kennedy
for M/s.Father Xavier Associates
for R4 and R5

* * * * *

ORDER

This writ petition has been filed challenging the rejection of the approval order passed by the second respondent herein.

2.According to the learned Counsel appearing for the writ petitioner, she was appointed as a Secondary Grade Assistant as per order dated 28.07.1999, by the fourth respondent in the vacant post created by resignation of one K.Rose Sudha. This resignation was also received approval from the authorities. The appointment was sent for approval to the second respondent and it was subsequently rejected by way of impugned order dated 23.12.2001. Subsequently, she came with a writ of mandamus directing the authorities to approve the petitioner's appointment by way of Writ Petition in W.P(MD)No. 20488 of 2004, which was dismissed on 08.03.2019, by observing that the petitioner shall challenge the rejection of approval. Thereafter, she has come forward with this writ petition.



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3. According to the learned Counsel appearing for the writ petitioner, she was appointed in the vacant post arises due to the retirement of one K. Rose Sudha. This appointment order has not been approved by the respondents on the ground that there are surplus teachers working in the Management school. This Court has time and again held that in the educational institutions, if any vacancy arises in the regular sanctioned post and if surplus Teachers are available, the same shall be accommodated by the surplus teacher and appointment of new teachers in the very same place held to be invalid. The petitioner is not able to establish that there was no surplus teacher in the Management at the time of her appointment. The order of the appointment also shows that the appointment is subject to the approval and the approval has been rejected by the authorities with valid ground as cited supra. It is also stated by the learned Additional Government Pleader that the petition has been filed after a lapse of 24 years for the post, that too after rejection of the approval and the petitioner has already been disengaged from her employment and thereby, she cannot seek for consequential relief of approval.

4. The learned Counsel appearing for the Management has also submitted that the petitioner was not working after rejection of the approval and she was disengaged.



5. Considering the above said facts, I am of the considered opinion that considering the case of the petitioner after a lapse of 24 years, it is not proper and also the fact that she is continuously disengaged from the year 2001, onwards. There is no merits in the Writ Petition. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are also closed.

24.06.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR



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K.RAJASEKAR, J.

RJR

To

1.The Secretary to Government,
Education Department, Secretariat,
Chennai - 600 009.

2.The District Elementary Educational Officer,
Tirunelveli.

3.The Assistant Elementary Educational Officer,
Rathapuram.

W.P.(MD)No.9403 of 2019

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