



W.P.(MD)No.13308 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.13308 of 2025

and

W.M.P.(MD).No.9541 of 2025

B.Mercy

... Petitioner

Vs.

1.The Director of Elementary School Education,
D.P.I.Compound, College Road,
Chennai.

2. The District Educational Officer (Elementary),
District Educational Officer (Elementary),
Valliyur, Tirunelveli District.

3. The Block Educational Office,
Nanguneri, Tirunelveli District.

4. The Correspondent,
TDTA Primary & Middle School,
Kodankulam, Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in respect of order passed by second respondent in Na.Ka.No.1404/A3/2024 dated 15.07.2024 in so far as granting approval from 20.04.2023 and condition No.3 and quash the same as illegal and consequently direct the second respondent to



W.P.(MD)No.13308 of 2025

approve the appointment of the petitioner from 21.06.2016 and disburse all the service and monetary benefits.

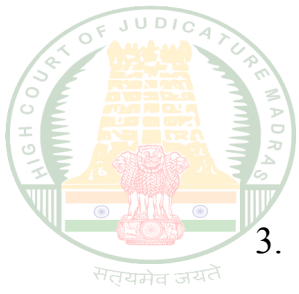
For Petitioner : Mr.S.Chella Pandian

For Respondent Nos.1 to 3 : Mr.T.Amjad Khan
Government Advocate

ORDER

The instant writ petition has been filed by the Secondary Grade Teacher appointed in the fourth respondent School, challenging the order passed by the second respondent on 15.07.2024, wherein the approval was granted only from 20.04.2023 instead of 21.06.2016.

2. According to the learned counsel appearing for the writ petitioner, the petitioner was appointed as Secondary Grade Teacher in the fourth respondent School on 21.06.2016. The proposal to grant approval of the appointment of the petitioner was forwarded by the management to the second respondent. The second respondent, instead of granting approval from the date of appointment, (i.e) 21.06.2016, vide impugned order dated 15.07.2024 granted the approval only from 20.04.2023 on the ground that there were surplus Secondary Grade Teachers prior to 20.04.2023.



W.P.(MD)No.13308 of 2025

3. According to the learned counsel for the petitioner, the fourth 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.(MD).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.(MD).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 fourth respondent School or not.

4. Per contra, the learned Government Advocate appearing for the official respondents herein had contended that the fourth 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 Teacher cannot be approved.



W.P.(MD)No.13308 of 2025

WEB COPY

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.(MD).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.

7.As far as the present case is concerned, one Secondary Teacher post has been sanctioned under the staff fixation order for the academic year 2015-2016 for the fourth respondent School. It is not in dispute that the petitioner has been appointed to the said post. In such circumstances, there are no surplus Secondary Grade Teachers as per the staff fixation year for the fourth respondent school.



W.P.(MD)No.13308 of 2025

WEB COPY

8. In view of the above, the order impugned in the writ petition is set aside insofar as it denies approval from 21.06.2016 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 21.06.2016 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.

29.04.2025

2/3

NCC:yes/no
Index:yes/no
Internet:yes/no
GVN



WEB COPY



W.P.(MD)No.13308 of 2025

BATTU DEVANAND, J.

GVN

To:

1.The Director of Elementary School Education,
D.P.I.Compound, College Road,
Chennai.

2. The District Educational Officer (Elementary),
District Educational Officer (Elementary),
Valliyur, Tirunelveli District.

3. The Block Educational Office,
Nanguneri, Tirunelveli District.

4. The Correspondent,
TDTA Primary & Middle School,
Kodankulam, Tirunelveli District.

W.P.(MD)No.13308 of 2025

29.04.2025

2/3