



W.P.(MD).No.5814 of 2017

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2025

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.5814 of 2017-

P.Vijayalakshmi

... Petitioner

Vs.

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

2.The Chief Educational Officer,
Madurai District,
Tallakulam, Madurai.

3.The Headmaster,
Government Girls Higher Secondary School,
Thirumangalam,
Madurai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorarified Mandamus***, to call for the records of the impugned order passed by the 3rd respondent in Na.Ka.No. 203-2016, dated 30.03.2017 and to quash the same as illegal and consequently, to direct the respondents to fix the petitioner's seniority and place her name in the attendance register, calculating the petitioner's service from 16.07.1997.

For Petitioner

: Mr.S.Sankarapandian

For Respondents

: M/s.D.Farjana Ghoushia

Special Government Pleader



W.P.(MD).No.5814 of 2017

WEB COPY

ORDER

The present writ petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order, dated 30.03.2017 and consequently, to direct the respondents to fix the petitioner's seniority and place the petitioner's name in the attendance register by calculating the service from 16.07.1997.

2. The petitioner is possessing B.Sc., B.Ed., and acquired M.Ed., degree in the year 1994, M.A., (History) in the year 1996 and M.Phil., from Madurai Kamaraj University on 30.06.2009. The petitioner joined the service as B.T. Assistant on 17.09.1993 in Gandhi Niketan Higher Secondary School, T.Kallupatti, Madurai and was regularized from the date of appointment. Then, she was promoted as Post Graduate Assistant on 16.07.1997 in the same school. Thereafter, the petitioner was transferred several times. In one such transfer, she worked in Madura Sugar Higher Secondary School, Pandiarajapuram and Government Higher Secondary School, P.Ammappatti. At the time of filing the writ petition, she was working in Government Girls Higher Secondary School, Thirumangalam.

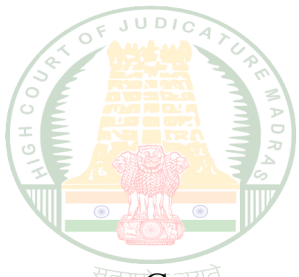


W.P.(MD).No.5814 of 2017

WEB COPY

3. The contention of the petitioner is that she was transferred to Madura Sugar Higher Secondary School Pandiarajapuram on 31.05.2010 on the ground of surplus in Gandhi Niketan Higher Secondary School. The Madura Sugar school was originally established as aided school, vide G.O.Ms.No.1033, dated 15.06.1966, under the management of Madurai Sugars Limited. Then the said Madurai Sugars Limited was nationalized, vide Act 18/1993 known as Madura Sugars Limited (Acquisition and Transfer of Undertaking) Act, 1984. Due to nationalization, the Higher Secondary School run by the Mill was also absorbed by the Government of Tamilnadu, vide G.O.Ms.No.154, dated 26.06.2012 and renamed as Government Madura Sugar Higher Secondary School, Pandiarajapuram.

4. At the time of absorption, 24 teaching staff including the petitioner and the 5 non-teaching staff were absorbed with posts. According to the petitioner, they were absorbed without affecting their seniority and pay structure. Thereafter, the petitioner was transferred to Government Higher Secondary School, P.Ammapatti, through counselling conducted on 20.07.2013 and she joined the school on 01.08.2013. Again, the petitioner was transferred to



W.P.(MD).No.5814 of 2017

WEB COPY

Government Girls Higher Secondary School, Thirumangalam, through counselling, dated 20.08.2016 and she joined the school on 22.08.2016.

5. The contention of the petitioner is that the 3rd respondent had placed the petitioner below the juniors. There are 54 teachers working in the school and the petitioner ought to have been placed in Serial No.2, but the respondents have placed her in Serial No.16. While absorbing the teachers and non-teaching staff, the Government had absorbed them without affecting the seniority and pay structure. The petitioner was not stated as junior in service at any point of time. Hence, the petitioner submitted a representation, dated 03.09.2016 and filed W.P.(MD)No.1935 of 2017. This Court, vide order, dated 06.02.2017, directed the respondents to consider the representation and pass orders. Hence the respondents have considered and passed the impugned order. Aggrieved over the same, the present writ petition is filed.

6. The respondents have filed counter affidavit stating that the Madura Sugar Higher Secondary School, Pandiarajapuram, was taken over by the Government, vide G.O.No.154, School Education Department, dated 26.06.2012. At the time of taking over, the petitioner has given her willingness to be absorbed



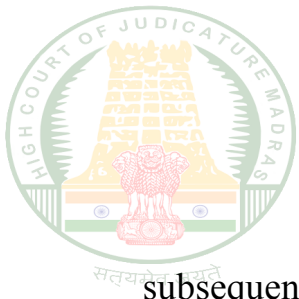
W.P.(MD).No.5814 of 2017

WEB COPY

into government service on 30.08.2012. Thereafter, the 2nd respondent issued orders absorbing the petitioner with effect from 01.09.2012 by accepting the willingness of the petitioner on a condition that the seniority in government service will be calculated from the date of absorption, i.e., from 01.09.2012 vide order, dated 05.09.2012, in Mu.Mu.No.10018/A4/2012. It is an admitted and undisputed fact that the petitioner was not a Government School Teacher until 31.08.2012. Therefore, she cannot claim seniority prior to the said date. Hence, the respondents prayed to dismiss the writ petition.

7. Heard Mr.S.Sankarapandian, learned Counsel appearing for the petitioner and M/s.D.Farjana Ghousia, learned Special Government Pleader appearing for the respondents and perused the records.

8. It is an admitted fact that the petitioner was serving in private aided school. When the mill was nationalized and the management was transferred to the Government, the school which was run by the mill was also absorbed through a separate Government order. Whenever there is absorption by the Government, all the benefits will accrue from the date of absorption. When the petitioner was serving as Teacher in the Private Aided School and was



W.P.(MD).No.5814 of 2017

subsequently, absorbed as Government Teacher from 01.09.2012, then all benefits including seniority of Government Teacher would accrue from the date of absorption only.

9. The contention of the petitioner is that impugned order states based on the petitioner's willingness the petitioner was absorbed, but the petitioner had not given any such willingness. The said contention cannot be accepted. If accepted then the petitioner ought to lose her job on the date of absorption. The Government was gracious enough granting absorption by taking into account the petitioner long service in the aided school and granting job protection, pay protection and other benefits. Only the seniority is being affected. On the other hand, the petitioner is benefitted, since now she is being in Government service. Even for transfer from one School to another school in Government service.

10. Further, whenever any person is transferred, the person would be placed as junior most in the seniority list and in service jurisprudence, placing the person as junior most in the transferred place is legally valid. Therefore, the impugned order of declining to grant seniority by taking the Post Graduate service from 16.07.1997 is legally sustainable. Hence, the writ petition is dismissed.



W.P.(MD).No.5814 of 2017

No costs.

WEB COPY

27.02.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Tmg

To

- 1.The Director of School Education,
D.P.I.Campus,
College Road, Chennai.
- 2.The Chief Educational Officer,
Madurai District,
Tallakulam, Madurai.
- 3.The Headmaster,
Government Girls Higher Secondary School,
Thirumangalam,
Madurai District.



WEB COPY



W.P.(MD).No.5814 of 2017

S.SRIMATHY, J.

Tmg

W.P.(MD).No.5814 of 2017

27.02.2025