



W.A(MD).No.1248 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 06.11.2025

PRONOUNCED ON : 10 .11.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD).No.1248 of 2020

C.Mary Rosalind

...Appellant/Petitioner

Vs

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

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

3.The Chief Educational Officer
Nagercoil
Kanyakumari District

4.The District Educational Officer
Kuzhithurai
At Marthandam
Kanyakumari District
629 165



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5.T.C.K.Higher Secondary School
Padanthalumoodu
Padanthalumoodu Post
Kanyakumari District
Represented by its
Manager-cum-Correspondent

...Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to modify the order passed in WP(MD).No.2326 of 2009 dated 16.10.2014, allowing the above writ petition in full.

For Appellant :Mr.K.N.Thampi

For Respondents : Mr.T.Amjadkhan
Government Advocate for R1 to R4

: Mr.G.Cenil for R5

J U D G M E N T

(Made by **R.VIJAYAKUMAR,J.**)

The petitioner in WP(MD).No.2326 of 2009 has filed the present writ appeal challenging the disallowed portion of the order of the writ Court.

(A).Factual Matrix:

2.The appellant herein was appointed as a P.G.Assistant (History) in the fifth respondent School on 04.06.2007 in the retirement vacancy of one Mr.P.Balakrishnan Nair. The management has forwarded a proposal to the authority for approval of the said appointment on 12.09.2007. By way of



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proceedings dated 02.01.2008, the proposal was returned by the authority on the ground that as per staff fixation for the academic year 2007-2008, only one post is sanctioned and the other posts have been rendered surplus. The School had addressed a communication on 08.01.2008 to the authorities seeking for approval again. On 17.03.2008, it was informed that there is no scope for filling up the said post, in view of staff fixation order for the academic year 2007-2008. On 17.03.2008, the authorities had passed an order informing that one post of P.G.Assistant (History) has been surrendered by the fifth respondent School. Aggrieved over the staff fixation order dated 02.01.2008 and the consequential order dated 17.03.2008 wherein the post was surrendered by the management, the appellant herein had filed a writ petition and sought a direction to approve her appointment with effect from 04.06.2007.

3. The respondent authorities had filed a counter contending that the writ petitioner was working in an un-sanctioned post since the post has already been surrendered to the Directorate. They further contended that the students strength had come down and the School is entitled to have only one sanctioned post of P.G.Assistant (History).

4. Pending writ petition, the appellant/writ petitioner had filed MP(MD).No.1 of 2012 seeking a direction to the management as against the authorities to approve the appointment of the appellant with effect from



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01.06.1999 on the ground that the sole P.G.Assistant (History) was working in the School had retirement on 31.05.2009. The writ Court directed the School Management to send a proposal for approval of the appointment of writ petitioner with effect from 01.06.2009 and directed the authorities to duly consider granting approval to the petitioner's appointment with effect from 01.06.2009. It is brought to the notice of the Court that the order of the writ Court has been complied with and approval has been granted to the writ petitioner's appointment with effect from 01.06.2009. However, the present writ appeal has been preferred by the writ petitioner on the ground that the approval should have been granted with effect from the date of her initial appointment namely 04.06.2007.

(B).Submissions of the learned counsels appearing on either side:

5.The learned counsel for the appellant submitted that the staff fixation order for the year 2005-2006 which was issued on 08.12.2005 clearly reveals that the School is entitled to have two P.G.Assistant (History) teachers as per students strength. The next staff fixation order (impugned in the writ petition) was issued only on 02.01.2008 for the academic year 2007-2008. Even before the impugned staff fixation order was issued, the petitioner was appointed on 04.06.2007. Therefore, citing the staff fixation order for the academic year 2007-2008, the request for approval cannot be rejected.



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6.The learned counsel for the appellant had further submitted that as per students strength prevailing, the School would be entitled to have two teachers, when Malayalam as well as English medium students are taken into account. He had further submitted that the writ Court has not assigned any reason whatsoever for rejecting the request of the petitioner seeking approval from the date of her initial appointment. He had further contended that MP(MD).No.1 of 2012 was filed seeking a direction to the authorities to approve her appointment with effect from 01.06.2009 only as a interim measure without prejudice the rights of the writ petitioner. Therefore, the approval of the authorities from 01.06.2009 cannot be considered to be a legal bar for considering the request of the writ petitioner for approval from the date of initial appointment. He had further submitted that the surrender of the alleged excess post was made with a *malafide* intention not to approve the appointment of the writ petitioner from the date of initial appointment.

7.The learned counsel for the appellant had further submitted that when the staff fixation order for the previous academic year 2006-2007 revealed that the School is entitled to have two P.G.Assistant (History) teachers, based upon the principal of promissory estoppel and legitimate expectation, the appointment of the writ petitioner should have been approved by the authorities with effect from 04.06.2007.



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8.Per contra, the learned Government Advocate appearing for the respondents herein had submitted that the writ petitioner has no *locus standi* whatsoever to challenge the staff fixation order. He had further pointed out that the proposal submitted by the management on 12.09.2007 seeking approval was returned on 19.09.2007. Another attempt was made by the School management on 08.01.2008 seeking to get No Objection Certificate for appointment to the retired vacancy of Mr.P.Balakrishnan Nair. This request was rejected by an order dated 12.02.2008. Without challenging these order, the present writ petition is not maintainable.

9.The learned Government Advocate appearing for the respondents had further submitted that the staff fixation is based upon the students strength prevailing on the first day of August every year. There were only seven students in the Tamil Medium Section in the academic year 2007-2008 and therefore, only one teacher post was sanctioned and an additional post was declared as surplus and surrendered to the Directorate. He had further submitted that the petitioner had made an application in MP(MD).No.1 of 2012 pending writ petition, seeking approval with effect from 01.06.2009 and the said approval has already been granted by the authorities. Thereafter, the petitioner cannot proceed with the present writ appeal. Hence, he prayed for sustaining the order passed by the writ Court.



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10. We have considered the submissions made on either side and perused the material records.

(C).Discussion:

11. The appointment of any teacher by the management for any particular academic year, can be approved by the authorities only if it is within the staff fixation order for the relevant academic year. In the present case, the writ petitioner has been appointed by the management on 04.06.2007 falling within the academic year 2007-2008. The staff fixation order for the said academic year reveals that only one post of P.G.Assistant (History) is sanctioned and the other sanctioned post has been declared as surplus, in view of the lesser student strength.

12. According to the writ petitioner, even before the staff fixation order was issued on 02.01.2008, the petitioner has been appointed on 04.06.2007. The management ought to have waited till 01.08.2007 to find out the students' strength and only thereafter, should have proceeded to appoint the teacher. However, without waiting for the students' strength to be fixed, the management has proceeded to appoint the petitioner on 04.06.2007 itself. Therefore, the writ petitioner cannot take advantage of the belated issuance of staff fixation order for the academic year 2007-2008.



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13.The management of the School had sent a proposal for approval of the appointment of the writ petitioner. However, the same has been returned.

The management has addressed a communication to the authority on 08.01.2008 seeking no objection for filling up the Post-Graduate due to retirement of one Mr.P.Balakrishnan Nair on 31.05.2007. This request was rejected by the authorities by way of proceedings dated 12.02.2008. The management has not chosen to challenge either the return order or the rejection order. The management has also not chosen to challenge the staff fixation order. The appointment of a teacher should be based upon the staff fixation order. After gaining appointment from the management, a teacher cannot question the staff fixation order on the ground that the staff fixation order is adverse to the already appointed teacher. A teacher does not have any *locus standi* to question the staff fixation order when the management has no grievance over the said order.

14. Pending writ petition, the sole teacher who was working as a P.G.Assistant (History) had attained superannuation on 31.05.2009 and in the said vacancy, the petitioner has been granted approval with effect from 01.06.2009. In such circumstances, in the present writ appeal, the writ petitioner is seeking approval from 04.06.2007 onwards which is not permissible for the reasons stated above.



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WEB COPY **(D).Conclusion:**

15.In fact, the petitioner was making the several representations to implement the order of the writ Court for granting approval from 01.06.2009. Such an approval was granted by the authorities on 21.01.2015. Four years thereafter, to try her luck, the present writ appeal has been preferred by the writ petitioner seeking retrospective approval from 04.06.2007. Therefore, the said prayer cannot be granted, in view of the reasons assigned supra. There are no merits in the writ appeal and the writ appeal stands dismissed. No costs.

(C.V.K.J.,)

(R.V.J.,)

10 .11.2025.

Index :Yes/No
Internet :Yes/No
NCC : Yes/No
msa



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**C.V.KARTHIKEYAN,J.
AND
R.VIJAYAKUMAR,J.**

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Pre-delivery Judgment made in
W.A(MD).No.1248 of 2020

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