



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.03.2025

PRONOUNCED ON : 03.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

and

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

REV.APLW.(MD)Nos.37 and 38 of 2017and

W.M.P.(MD)Nos.8535 and 8536 of 2017

V.Beatress Sheeba

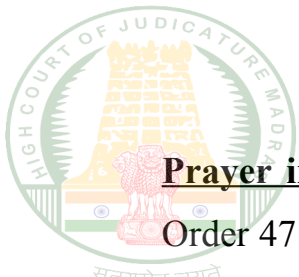
... Petitioner in both cases

Vs.

- 1.The Chief Educational Officer,
Nagercoil-1,
Kanyakumari District.
- 2.The District Educational Officer,
Kuzhithurai,
Kanyakumari District.
- 3.The Correspondent,
R.T.M. L.M.S. Higher Secondary School,
Venkanji Kollencode Post,
Kanyakumari District.
- 4.The Corporate Manager and Secretary,
Corporate Management School,
C.S.I.Kanyakumari Diocese,
Kanyakumari District.
- 5.The Bishop,
Church of South India,
Kanyakumari Diocese,
C.S.I.Diocese Office,
71-A, Dennis Street,
Nagercoil, Kanyakumari District.

6.Y.S.Sherly

... Respondents in both cases



Prayer in Rev.AplW(MD)No.37 of 2017: Review Application is filed under Order 47 Rule 1 of C.P.C.to review as against the order made in W.P.(MD) No. 2293 of 2017, dated 10.04.2017.

Prayer in Rev.AplW(MD)No.38 of 2017: Review Application is filed under Order 47 Rule 1 of C.P.C. to review as against the order made in W.P.(MD) No.7458 of 2013, dated 10.04.2017.

In both cases:

For Appellants : Mr.T.Lajapathi Roy
Senior Counsel
For M/s.C.R.Mimal

For R1 and R2 : Mr.J.Ashok,
Additional Government Pleader.

For R3 and R4 : Mr.S.C.Herold Singh

For R6 : Mr.H.Mohammed Imran
For M/s.Ajmal Associates

COMMON ORDER

(Order of the Court was delivered by **S.SRIMATHY, J.**)

Both the review applications arise from the common order dated 10.04.2017 passed in W.P.(MD) No.2293 of 2017 and W.P.(MD) No.7458 of 2013, hence both the review applications are taken up together and common order is passed.

2.(i) The Rev.Aplc.(MD)No.37 of 2017 is filed by V.Beatrix Sheeba against the order passed in W.P.(MD) No.2293 of 2017 and the said writ petition is filed by V.Beatrix Sheeba inter alia praying for Writ of Certiorarified Mandamus to quash the order dated 03.08.2009 passed by the



Corporate Manager and direct the respondents to grant all the monetary benefits to the petitioner, who is working as B.T Assistant at the 3rd respondent School.

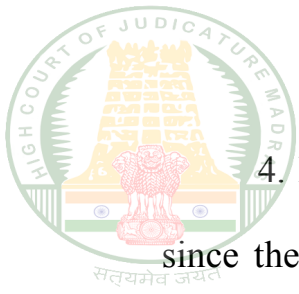
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In the said order dated 03.08.2009 the Corporate Manager has stated that the promotion of V.Beatrix Sheeba is illegal and hence reverted her to the post of Secondary Grade Teacher. The said writ petition was dismissed, hence the present review petition.

2.(ii) The The Rev.Aplc.(MD)No.38 of 2017 is filed by V.Beatrix Sheeba against the order passed in passed in W.P.(MD) No.7458 of 2013. The said writ petition in W.P.(MD)No.7458 of 2013 was filed by Y.S.Sherly inter alia praying for Writ of Certiorarified Mandamus to quash the order dated 20.09.2012 and to direct the respondent to approve the appointment of Y.S.Sherly as B.T. Assistant (Maths) with effect from 03.01.2011 in the 3rd respondent Higher Secondary School. The order dated 20.09.2012 was passed by the DEO wherein the proposal to approve the appointment of Y.S.Sherly was returned stating that the promotion of Beatrix Sheeba to the said post was approved and hence appointing Y.S.Sherly in the same place cannot be approved. Challenging the same the said Y.S.Sherly had filed the writ petition and the said writ petition was allowed, aggrieved over the present review is filed by the said Beatrix Sheeba.



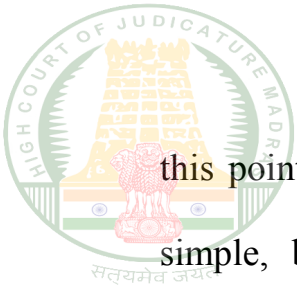
3. The primary contention of the review applicant Beatress Sheeba is that the very same appointment committee which has promoted her on 16.07.2008, has appointed Y.S.Sherly on 13.03.2012, hence the promotion of review applicant alone cannot be illegal and the appointment of Y.S.Sherly be legal. The said contention of the review applicant cannot be accepted. The Court had held that the Appointment Committee can only make recommendation for appointment or promotion. Further the Bishop was out of the country from 09.07.2008 to 14.08.2008. Before he left on 04.07.2008 the Bishop had appointed one Rev.K.M.Devaraj, Vice President as the Commissary on his behalf for the said period with specific instruction not to chair any board or committee which are chaired by the Bishop. In spite of the same, meeting was convened which was chaired by the Corporate Manager and resolution was passed and the review applicant was granted promotion on 16.07.2008. When the Bishop has not granted such power to the Corporate Manager, constituting such committee by the Corporate Manager is illegal and passing resolution granting appointment, promotion by the Corporate Manager is also illegal. Infact after returning from the foreign the Bishop had cancelled the promotion granted to the review applicant on 11.08.2008 and also cancelled approximately 80 such appointments. While the facts being so, the contention of the review applicant that the committee is same is absolutely erroneous.



4. Further the review applicant cannot compare herself with Y.S.Sherly, since the said Y.S.Sherly's appointment is on 03.01.2011 and not during the absence of Bishop.

5. The next contention of the review applicant is that the promotion and cancelling promotion is a continuous cause of action, hence there is no delay in preferring the writ petition. It is seen that the review applicant was promoted, then the promotion was cancelled in the year 2008. But the writ petition was filed in the year 2017. The reason cited by the review applicant is that there is bar to file litigation under the Diocese Laws and the Dioceses did not give permission to the review applicant to litigate but the Dioceses had granted permission to prefer litigation to one Shini Angel. Such contention of the petitioner cannot be accepted. Since any contract preventing a person from seeking legal remedy is illegal and void and not binding the parties. If the review applicant approached the Courts earlier with the plea to protect from such clause, then the Courts would have granted protection. Therefore, this Court is of the considered opinion that the finding rendered by the Court regarding delay is totally perfect.

6. The Corporate Manager had filed a counter stating that both the review applicant and the said Y.S.Sherly can be accommodated in the resultant vacancy. The said contention of the Corporate Manager cannot be accepted at



this point of time of seventeen years. Further the said contention may appear simple, but this will create many complications. Furthermore it will put financial burden on the government. Therefore, this Court is not inclined to entertain the said plea.

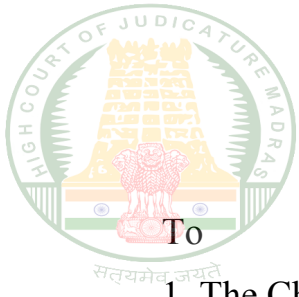
7. From the above discussions, it is evident that there is no error apparent on the face of the record. The review application is filed under the guise of appeal, hence the same cannot be entertained. Therefore, the same is liable to be dismissed, accordingly dismissed. No costs. Connected Miscellaneous Petitions are closed.

[J.N.B., J.] [S.S.Y., J.]

03.06.2025

Index : Yes / No

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To

1. The Chief Educational Officer,
Nagercoil-1,
Kanyakumari District.

2. The District Educational Officer,
Kuzhithurai,
Kanyakumari District.



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J.NISHA BANU, J.

and

S.SRIMATHY, J.

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and 38 of 2017

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