



W.A(MD)No.1830 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD)No.1830 of 2023
and
C.M.P(MD)No.13969 of 2023**

- 1.The Commissioner,
School Education Department,
DPI Campus,
College Road,
Nungambakkam,
Chennai – 6.
- 2.The Chief Educational Officer,
Chief Educational Office,
Thanjavur.
- 3.The District Educational Officer,
District Educational Office,
Kumbakonam.
- 4.The Head Master,
Government High School,
Thiruvaipadi,
Thanjavur District.

... Appellants /
Respondents

Vs.



R.Hemamalini



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... Respondent /
Writ Petitioner

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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the judgment dated 19.07.2023 in W.P(MD)No.8520 of 2023 on the file of this Court.

For Appellants : Mr.C.Venkatesh Kumar
Special Government Pleader

For Respondent : Mr.G.Sailendra babu

JUDGMENT

(Judgment of the Court was made by **G.R.Swaminathan J.**)

Heard both sides.

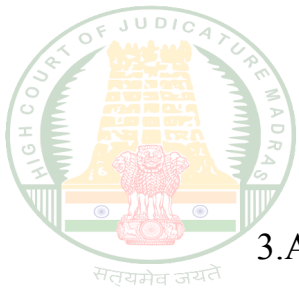
2.The writ petitioner joined a Government School as Secondary Grade Teacher on 11.09.2002. Subsequently, she got appointment as BT Assistant through TRB in the year 2007. She got relieved from the earlier School on 04.10.2007 and joined in the new school on 10.10.2007. There was a break in service of 5 days. Citing this, the Writ petitioner was placed in the new pension scheme. Challenging the same, She filed W.P(MD)No.8520 of 2023. The learned single Judge allowed the Writ Petition vide order dated 19.07.2023 in the following terms:



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“12. The argument of the learned counsel for the petitioner is good for the reason that her contention is supported by the proceedings of the District Elementary Education Officer, Tanjavur wherein it is clearly stated that the petitioner had resigned with proper permission and the same has been forwarded before him for approval and on that basis, she joined in the Government High School, T.S.Pettai, Cuddalore District as B.T Assistant. Hence, in view of Rule 23 Sub clause (1), resignation will not entail forfeiture of her past service in this case, since the same has been done with a proper permission of the competent authorities. Moreover, the orders passed by this Court in W.P(MD)No.28154 of 2011 and 15123 of 2015 squarely cover this case. In view of the same, this Court is inclined to quash the impugned order, dated 22.12.2022 and thereafter, direct the respondents to condone the petitioner’s break in service of 5 days which was caused exclusively due to emergency medical exigency, that too on the ground of miscarriage happened to her at that point of time and thereafter, this Court categorically directs the respondents to restore the writ petitioner under the old pension scheme with her Teacher Provident Fund in T.P.F.No.339102 and permit her to pay the contribution towards the Teacher Provident Fund under the old pension scheme. Accordingly, the impugned order, dated 22.012.2022 is quashed.”



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3. Admittedly, the writ petitioner was originally in Government employment as a Secondary Grade Teacher. She got a better job through TRB and was appointed as BT Assistant. Rule 23(1) of Tamil Nadu Pension Rules clearly states though resignation shall entail forfeiture of past service, it would not be so when it has been submitted to take up with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies. The service of the writ petitioner as Secondary Grade Teacher or as BT Assistant is under the Government of Tamil Nadu. Therefore, a short delay of one day in joining the new post after the resignation of the earlier post cannot operate as a forfeiture of past service. The learned single Judge adopted the right approach. Interference with the said order is not warranted.

4. This Writ Appeal stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [K.R.S., J.]
20.06.2025

NCC : Yes / No
Internet : Yes / No
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