



W.A(MD)No.163 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.06.2025

CORAM

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

W.A(MD)No.163 of 2023

R.Mary Arul Selvi

... Appellant /
Petitioner

Vs.

- 1.The State of represented by
The Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.
- 2.The Director of Elementary Education,
College Road,
Chennai – 600 006.
- 3.The District Elementary Education Officer,
Tuticorin,
Tuticorin District – 627 001.
- 4.The Assistant Elementary Education Officer,
Alwarthirunagari at Thenthiruperai,
Tuticorin District.
- 5.The Correspondent,
St.Aloysius Primary School,



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Pirandarkulam,
Tuticorin District.



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... Respondents /
Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 07.01.2022 in W.P(MD)No.19383 of 2014 on the file of this Court.

For Appellant : Mr.A.Ajith Geethan

For Respondents : Mr.C.Venkatesh Kumar
Special Government Pleader
for R.1 to R.4

No Appearance for R.5

JUDGMENT

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

Heard both sides.

2.The appellant herein was appointed as secondary grade teacher in the fifth respondent school on 01.06.1987. She completed 5 years by 01.06.1992. In the said school during the relevant time, two secondary grade teacher posts had been sanctioned. According to the appellant, considering the students strength, one post of secondary grade teacher should have been upgraded as headmaster. Since the appellant had completed 5 years as on 01.06.1992, the school management appointed her as Headmistress. Even though the appellant



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was serving in the capacity of headmaster, she was paid only the salary of a secondary grade teacher. The school management was representing to the department to upgrade the post of secondary grade teacher as headmaster. This request came to be ultimately accepted only on 09.01.2001 following issuance of G.O(Ms)No.5 School Education (B2) Department dated 09.01.2001.

3.The writ petitioner continued to move the department seeking recognition of her appointment as Headmistress with effect from 01.07.1992; however, her request was rejected by the DEEO, Tuticorin vide order dated 20.09.2014. Challenging the same, the appellant filed W.P(MD)No.19383 of 2014. The Writ Petition was dismissed by the learned single Judge in the following terms:

“6. It is seen that the claim of the petitioner is that he was joined in the service on 01.06.1987 and was serving as Headmaster-Incharge from 1987 to 1992, even though the petitioner is appointed as Secondary Grade Teacher, the petitioner has gained five years of experience on 01.06.1992 and therefore, she is eligible to be promoted as Primary School Headmaster. However, the respondent’s contention is that the school was not sanctioned the post of Headmaster until 2001. In fact several school submitted representation to sanction the post, thereafter the Government after careful consideration of



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the representations from various school has issued G.O.Ms.No. 5 School Education (B2) Department, dated 09.01.2001 creating for the first time the post of “Primary School Headmaster” for various schools. Infact the Headmaster post was sanctioned only through G.O.Ms.No.5 to the school. The respondents contention is that when there is no sanctioned post, the petitioner cannot claim to upgrade her post from the Secondary Grade to Primary School Headmaster prior to 2001. The petitioner relied on the Judgment rendered in W.A.No.1969 of 2010 in the case of V. Pauldurai Vs. the Director of Elementary Education, Chennai – 6 and others. In the said Judgment the school was upgraded from Primary School to Middle School. In the present case the school was not given any sanctioned post for Primary School HM at all. Even though there is a reference of G.O.Ms.No.5, in the said writ appeal the issue is totally different in that Writ Appeal and the same is not applicable for the present case. In the present case the school was not granted any sanctioned post of Primary School Headmaster post at all. When the school was sanctioned it was sanctioned by “two Secondary Grade Post” and there was no sanction of “Primary School Headmaster” post. Infact in the entire state of Tamil Nadu there was no Primary School Headmaster post sanctioned at all, until the issuance of G.O.Ms.No.5, dated 09.01.2001. When there is no post at all, more so when there is no sanctioned post for the school in the category of “Primary School Headmaster” post



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then there is no right to grant upgradation from 1992 onwards as claimed by the petitioner. Infact the petitioner was serving as Secondary Grade Teacher alone even though she may be senior in that school. The Government has sanctioned only two Secondary Grade post. After issuance of G.O.Ms.No.5, the school has submitted a proposal for upgrading one post of Secondary Grade Teacher to Primary School Headmaster. Therefore, from the date of G.O.Ms.No.5 alone the petitioner has right for upgradation. Therefore, this Court is of the considered opinion that the petitioner can claim upgradation only from 09.01.2001 since there was no sanctioned post for Headmaster prior to that.”

Challenging the same, this Writ Appeal has been filed by the writ petitioner.

4.The learned counsel for the appellant reiterated all the contentions set out in the grounds of appeal. He drew our attention to G.O(Ms)No.525 School Education (D1) Department dated 29.12.1997. Clause 5(1) of the said GO reads as follows:

“5. 1.ELEMENTARY SCHOOLS (Standards I to V)

a) The teacher-pupil ratio of 1:40 will be followed Minimum of 2 Secondary Grade Teachers up to a strength of 80 will be sanctioned. In respect of new Schools, first post will be created in the first year and second post in the second year. One of the two posts will be in the grade of Headmaster.



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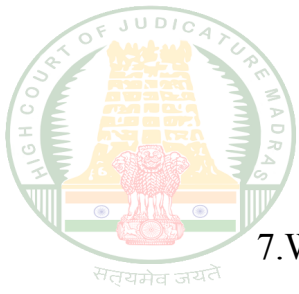
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b) For every additional strength of 40, one post of Secondary Grade teacher will be sanctioned i.e the third post at 100, the fourth post at 140, the fifth post at 180 and so on.

c) Regarding the bifurcation of a standard, additional sections will be created when the strength exceeds 60 and so on in slabs of 40.”

5.The learned counsel for the appellant was at pains to point out that G.O(Ms)No.525 School Education (D1) Department dated 29.12.1997 did not introduce any new principle but only reiterated the existing position. He also relied on the decision of the Division Bench made in W.A(MD)No.1969 of 2010 (V.Pauldurai Vs The Director of Elementary Education & Others) and W.P(MD)No.24213 of 2005 (S.Manivannan Vs The Director of School Education & Others). According to him, the factual matrix obtaining in those cases and the case on hand are broadly similar. He submitted that the appellant's cause should be deemed to be a one of continuing in nature. He called upon this Court to set aside the order of the learned single Judge and grant relief as prayed for.

6.Per contra, the learned Special Government Pleader submitted that the impugned order is well reasoned and does not warrant interference.



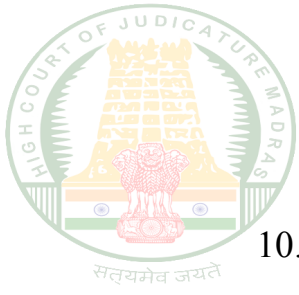
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7.We carefully considered the rival contentions and went through the

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8.It is not in dispute that when the appellant was appointed as Headmistress on 01.07.1992 by the School Management, admittedly there was no sanctioned post of headmaster. Neither the School management nor the individual appointee concerned can automatically demand upgradation to the post of Headmaster based on Gos. These are matters that have substantial financial implications. In fact, the learned single Judge had observed in paragraphs 6 of the order that it was only vide G.O(Ms)No.5 School Education (B2) Department dated 09.01.2001, the post of primary School Headmaster was sanctioned for a large number of schools and the appellant's school was one such beneficiary.

9.When the cause of action arose in 1992, the writ petition came to be filed several years later. The doctrine of laches will have to be necessarily applied and invoked. There is no enforceable right to demand upgradation. These are matters in which the decision has to be taken only by the department concerned. We do not find any ground to fault the approach of the learned single Judge.



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10.This Writ Appeal stands dismissed. There shall be no order as to

costs.

[G.R.S., J.] [K.R.S., J.]
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NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

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