



W.P.(MD).No.27330 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 06.01.2025

ORDER PRONOUNCED ON : 08.01.2025

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD).No.27330 of 2024

A.Sutha

....Petitioner

Vs

1.The Director of Elementary School Education
D.P.I.Compound
College Road
Chennai

2.The Chief Educational Officer
Tenkasi District
Tenkasi

3.The District Educational Officer (Elementary)
Office of the District Educational Office
Tenkasi

4.The Block Educational Officer-II
Tenkasi Circle
Tenkasi

5.The Correspondent
CMS MAC Whither Middle School
Tenkasi

.....Respondents



W.P(MD).No.27330 of 2024

Prayer : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in respect of order passed by the fourth respondent in O.Mu.No.493/A1/2024 dated 30.09.2024 and quash the same and consequently direct the third and fourth respondents to approve the appointment of the petitioner and disburse all the service and monetary benefits from the date of the appointment (ie. 04.06.2019).

For Petitioner : Mr.S.Chellapandian

For Respondents : Mr.N.Satheeshkumar

Additional Government Pleader for R1 to R4

: Mr.P.P.Alwin Balan for R5

ORDER

The instant writ petition has been filed by a Secondary Grade Teacher challenging the order passed by the fourth respondent on 30.09.2024 wherein the proposal forwarded by the management for approval of her appointment has been returned.

2.The petitioner herein was appointed as a Secondary Grade Teacher in the fifth respondent School on 04.06.2019 in the vacancy created by promotion of one P.Vedhavalli. The management has forwarded the proposal to the authority for approval. The approval has been rejected under the impugned order on the following grounds:



W.P(MD).No.27330 of 2024

a)When there is no vacancy in the category of Secondary Grade

Teacher post for the academic year 2018-2019 and 2019-2020, the management has to explain how the petitioner was appointed.

b)The School has to produce a certificate to the effect that there are no surplus teacher in the above said academic year.

3.The learned counsel for the petitioner had contended that one P.Vedhavalli was working as a Secondary Grade Teacher in the fifth respondent School and she was promoted as a B.T.Assistant to a different School on 03.06.2019. In the said vacancy, the petitioner was appointed on 04.06.2019. The staff fixation order for the academic year 2018-2019 was served upon the School only on 19.06.2019. The appointment of the writ petitioner is within the said staff fixation.

4.The learned counsel for the writ petitioner had further contended that, though one Mercygnanabai Sofia was shown as a surplus Secondary Grade Teacher in the staff fixation report dated 19.06.2019, she was deployed in the same School for classes VI to VIII which fell vacant on 01.06.2019 due to transfer of one Kanagarathnam. Therefore, according to the writ petitioner, out of five sanctioned posts in the fifth respondent School, the petitioner has been appointed to the fifth post and therefore, there are no surplus teachers.

5.The learned counsel for the petitioner had further contended that since a vacancy has arisen in the Secondary Grade Teacher post due to the



W.P(MD).No.27330 of 2024

promotion of one P.Vedhavalli and deployment of Mercygnanabai Sofia, the authorities are not right in contending that there is no vacancy to accommodate the writ petitioner. Since there are no surplus teachers, the order impugned in the writ petition is liable to be set aside and the authorities may be directed to approve the appointment. Hence, he prayed for allowing the writ petition to approve the appointment of the writ petitioner.

6.Per contra, the learned Additional Government Pleader appearing for the official respondents had contended that when the petitioner was appointed on 04.06.2019, a Secondary Grade Teacher was surplus. Without accommodating the surplus teacher, the petitioner has been appointed as a fresh appointment. He had further contended that the petitioner herself admits that one Mercygnanabai Sofia was a surplus teacher and she had been deployed to take classes for VI to VIII Standard. However, no records have been placed before the Court to establish the same. Hence, he prayed for dismissal of the writ petition.

7.I have considered the submissions made on either side and perused the material records.

8.A perusal of the impugned order passed by the fourth respondent on 30.09.2024 reveals that the proposal forwarded by the management has not been rejected, but it has been returned by the authorities seeking two clarifications. Even according to the learned counsel for the petitioner, one



W.P(MD).No.27330 of 2024

Mercygnanabai Sofia was a surplus Secondary Grade Teacher at the time of her appointment. Whether she was deployed from Classes I to V to Classes VI to VIII is not known. That apart, whether there was vacancy for the post of Secondary Grade Teacher for taking classes VI to VIII at the relevant point of time or not is also not known.

9.The learned counsel for the petitioner as well as the learned counsel appearing for the school management contended that five Secondary Grade Teacher posts have been sanctioned to the School and the petitioner is the fifth Secondary Grade Teacher appointed to the said post. A perusal of the staff fixation order reveals that for the relevant academic year namely 2018-2019, there are two surplus Secondary Grade Teacher posts, one with the teacher and other without teacher. In such circumstances, it is for the management to establish before the authority that whether the appointment of the writ petitioner is within the staff fixation order for the relevant year or in excess there of.

10.In view of the above said deliberations, this Court is not inclined to interfere in the order of return passed by the respondent authority. The management is directed to submit the records to the fourth respondent as called for by him in his proceedings dated 30.09.2024 within two weeks from the date of receipt of copy of this Court. On receipt of the same, the fourth



W.P(MD).No.27330 of 2024

respondent is directed to pass orders on merits and in accordance with law within a period of eight weeks thereafter.

11.In the result, this writ petition is disposed of with the above said observations. No costs.

08.01.2025

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

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W.P.(MD).No.27330 of 2024

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Pre-delivery order made in

W.P.(MD).No.27330 of 2024

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