



W.P.(MD)No.28561 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2025

**CORAM:
THE HON'BLE MR JUSTICE R.VIJAYAKUMAR**

**W.P.(MD)No.28561 of 2024
and WMP(MD).No.24212 of 2024**

Mrs.R.Padmavathi

... Petitioner

Vs.

1.The Government of Tamil Nadu
Represented by its Additional Chief Secretary
Department of School Education
Fort.St.George, Chennai -9

2.The Director of School Education
DPI Campus
College Road, Chennai -6

3.The Chief Educational Officer
The Office of the Chief Educational Officer
Tirunelveli District

4.The District Educational Officer (Secondary)
The Office of the District Educational Officer
Tirunelveli District

5.The Correspondent
Senaithalaivar Higher Secondary School
Tirunelveli, Tirunelveli District

.....Respondents



W.P.(MD)No.28561 of 2024

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings, dated 26.10.2024 in O.Mu.No.8730/A2/2024 on the file of the third respondent and quash the same in respect of the petitioner, directing the respondents to approve the appointment of the petitioner Mrs.R.Padmavathi, working as B.T.Asst.(Maths) in Senaithalaivar Higher Secondary School, Tirunelveli, Tirunelveli District w.e.f.12.06.2023, with all service benefits.

For Petitioner : Mr.S.Savarimuthu
For M/s.Father Xavier Associates

For Respondents :Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

The present writ petition has been filed by a B.T.Assistant (Maths) Teacher appointed to the fifth respondent School challenging the order passed by the third respondent herein wherein the proposal submitted by the management for approving her appointment has been rejected.

2.A perusal of the impugned order reveals that on retirement of Secondary Grade Teacher, the said post has been upgraded as B.T.Assistant (Maths) and the in the said post, the petitioner has been appointed. The impugned order points out



W.P.(MD)No.28561 of 2024

that without obtaining prior permission, upgradation has been made and therefore, approval cannot be granted. The order further points out that the petitioner having not passed TET examination, is not eligible to be appointed and therefore, the question of granting approval would not arise.

3.The learned counsel appearing for the writ petitioner submits the fifth respondent School is a stand alone minority institution and therefore, there are no surplus Secondary Grade Teachers. In such circumstances, the upgradation of the post of Secondary Grade Teacher to that of the B.T.Assistant is automatic and no prior permission is required. The institution being a minority institution, a pass in TET examination is not mandatory.

4.The learned Additional Government Pleader appearing for the respondents had contended that as far as the staff fixation order for the academic year 2022-2023, a B.T.Assistant (Maths) Teacher post has been declared to be surplus with teacher. Therefore, the authorities have to verify whether the appointment of the writ petitioner is within the staff fixation order or not.

5.Heard both sides and perused the material records.

6. The Hon'ble Division Bench of our High Court in a judgment reported in ***2023-3-LW-112 (The Director of School Education D.P.I. Campus, College***



W.P.(MD)No.28561 of 2024

Road & others Vs. M.Velayutham & another) in Paragraph No.74(c) has categorically held that a pass in TET examination is not mandatory for being appointed as a teacher in the minority institution. Therefore, such a reason assigned in the impugned order is not legally sustainable. The fifth respondent School is a stand alone institution, the staff fixation order for the academic year 2022-2023 has to be taken into consideration to find out whether there are any surplus Secondary Grade Teacher.

7.A perusal of the said staff fixation order reveals that there are no surplus Secondary Grade Teacher for the academic year 2022-2023. Therefore, the question of seeking prior permission for upgradation does not arise and the upgradation is automatic in view of policy decision of the Government.

8.In view of the above said deliberations, this Court passes the following orders:

- a) The order impugned in the writ petition is set aside and the matter is remitted back to the file of the third respondent.
- b) The third respondent shall verify whether the appointment of the writ petitioner is within the two sanctioned post of B.T.Assistants for the academic year 2022-2023.



W.P.(MD)No.28561 of 2024

WEB COPY

c)In case, if the appointment is within the sanctioned post, shall proceed to pass orders approving the appointment of the writ petitioner with effect from 12.06.2023 and pass orders within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9.With the above said observations, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

23.01.2025

Index : Yes/No
Internet : Yes/No
NCC: : Yes/No
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W.P.(MD)No.28561 of 2024

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W.P.(MD)No.28561 of 2024

R.VIJAYAKUMAR, J.

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