



W.P.(MD) No.27880 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
06.11.2025	16.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.27880 of 2025

and W.M.P.(MD) No.21655 of 2025

X.Mary Jini

... Petitioner

-VS-

1.The Chief Educational Officer,
Kanyakumari District.

2.The District Educational Officer (Secondary Grade)
Marthandam, Kanyakumari District.

3.St.Aloysius Higher Secondary School,
Represented by its Correspondent,
Marthandanthurai, Kollemcode Post,
Kanyakumari District – 629 160.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus or any other appropriate Writ, Order or Direction



W.P.(MD) No.27880 of 2025

WEB COPY

in the nature of a Writ, calling for the records relating to the impugned order issued by the first respondent herein in Na.Ka.No.4527/A1/2019 dated 31.07.2025, quash the same and further direct the first respondent herein to approve forthwith the appointment of the petitioner as BT Assistant (Maths) in the 3rd respondent-school from 01.06.2016 onwards with salary and other attendant benefits, and pass such further or other suitable order.

For Petitioner : Mr.E.V.N.Siva

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

ORDER

This Writ Petition has been filed for challenging the impugned order issued by the first respondent herein in Na.Ka.No.4527/A1/2019 dated 31.07.2025, quash the same and for a consequential direction to the first respondent herein to approve forthwith the appointment of the petitioner as BT Assistant (Maths) in the 3rd respondent-school from 01.06.2016 onwards with salary and other attendant benefits

2) Heard Mr. E.R.N.Siva, learned counsel appearing for the petitioner and



W.P.(MD) No.27880 of 2025

WEB COPY

Mr.N.Satheeshkumar, learned Additional Government Pleader appearing on behalf of the respondents.

3) The learned counsel for the petitioner would submit that the petitioner had been working as B.T. Assistant (Maths) in the third respondent School from 01.06.2016 in a vacancy in a sanctioned post which arose due to the superannuation of the incumbent then. Thereafter, a fresh order of appointment was issued on 01.06.2017 and a proposal was sent to the Authorities for grant of approval. The said proposal was returned by proceedings dated 22.06.2018 stating that the proposal would be only considered after getting necessary guidelines from the Government. Challenging the said communication, the petitioner had approached this court in W.P.(MD).No.12815 of 2019 wherein by order dated 24.03.2025, this Court had quashed the same and remitted the matter back to the Authorities for fresh consideration with a direction to verify the educational qualifications and other suitability of the petitioner for appointment to the post of B.T.Assistant (Maths) as per the Rules as on the said date and pass orders.



W.P.(MD) No.27880 of 2025

WEB COPY

4) He would submit that after remittal, under the impugned order dated 31.07.2025, the respondent had rejected the approval of the appointment holding that the petitioner's appointment on 01.06.2016 as B.T. Assistant (Maths) was in a place which was surplus and that when fresh appointment was made on 01.06.2017 there was a surplus in the joint management of the school where the petitioner was appointed.

5) In that context, he would submit that the Authorities have also relied upon a judgment of the Hon'ble Division Bench of this Court made in W.A. (MD).No.1668 of 2023 etc., batch, in applying joint management of surplus for appointments made prior to 31.03.2021 namely the date of the judgment in W.A. (MD).No.76 of 2019 etc., batch. Hence, he seeks indulgence of this Court to the order impugned herein.

6) Countering his arguments, Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing on behalf of the respondents would submit that



W.P.(MD) No.27880 of 2025

WEB COPY

there was a declaration of service of B.T. Assistant (Maths) in the third respondent/ school under the staff fixation order date 31.10.2016 as surplus. Hence, there could have been no appointment made by surplus vacancy. With regard to the second appointment on 01.06.2017, he would contend that there has been a surplus in the joint management of the schools of which the third respondent is a part of. Therefore, he would submit that by application of judgment of the Hon'ble Division Bench of this Court in W.A.(MD).Nos.1668 of 2023 etc., batch dated 30.04.2025 which had held that the judgment of this Court in W.A.(MD).No.76 of 2019 etc., batch would be applied retrospectively and the vacancy could also be not filled up on the said date. Hence, he would submit that there is no error in the order impugned herein seeking any interference of this Court and therefore, prays this Court to dismiss the Writ Petition.

7) I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

8) The petitioner who had been originally appointed on 01.06.2016 in a



W.P.(MD) No.27880 of 2025

WEB COPY

vacancy that arose on 31.05.2016 due to a retirement of the incumbent was originally returned as there was a surplus working in the school based upon the staff fixation order for the academic year 2016-17. Therefore, the petitioner had been appointed on 01.06.2017 and a proposal for approval on such appointment was also forwarded by the third respondent/ school. A staff fixation order has been issued on 09.11.2017 for the academic year 2017-18 which would include the period of which the petitioner had been appointed as B.T.Assistant (Maths) in the third respondent/ school. A staff fixation order on 09.11.2017 also do not reflect any surplus teacher in the post of B.T.Assistant (Maths).

9) In such view of the matter, the reasons attributed that on 01.06.2016 there has been a surplus for rejection of the approval from that date cannot be interfered with. But as regards to the refusal to approve the appointment on 01.06.2017 on the strength of the Division Bench judgment dated 30.04.2025 made in W.A.(MD).No.1668 of 2023 etc., batch, this Court is of the view that it is to be noted that this Court in W.P.(MD).No.25712 of 2024 had dealt with the issue as to whether the concept of joint/ corporate management surplus as



W.P.(MD) No.27880 of 2025

WEB COPY

envisaged by Division Bench of this Court in W.A.(MD).No.76 of 2019 dated 31.03.2021 is prospective or retrospective. This Court having analysed the contradictory judgments of the Division Benches with regard to the applicability of the judgments made in W.A.(MD).No.76 of 2019 had held the same to be only prospective for the reasons indicated therein. The Court had finally come to a conclusion that the judgment made in W.A(MD).No.76 of 2019 dated 31.03.2021 can only be prospective.

10) In the present case, admittedly, the petitioner had been appointed on 01.06.2017 and on that date of appointment, there has been no joint/corporate management surplus could not have been put against such appointment. The petitioner had also qualified herself with TET which is evidenced by the certificate produced by her along with the typed set of papers.

11) For the aforesaid reasons, the Writ Petition stands allowed by setting aside the impugned order and as a sequel, the first respondent is directed to approve the appointment of the petitioner as B.T. Assistant (Maths) in the third



W.P.(MD) No.27880 of 2025

WEB COPY

respondent/ school with effect from 01.06.2017 and release grant-in-aid towards her salary with all other attendant benefits. Such exercise shall be carried out by the first respondent within a period of four (4) weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

16.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Gba

To:

- 1.The Chief Educational Officer,
Kanyakumari District.
- 2.The District Educational Officer (Secondary Grade)
Marthandam, Kanyakumari District.
- 3.St.Aloysius Higher Secondary School,
Represented by its Correspondent,
Marthandanthurai, Kollemcode Post,
Kanyakumari District – 629 160.



WEB COPY



W.P.(MD) No.27880 of 2025

K.KUMARESH BABU, J.

Gba

PRE-DELIVERY ORDER
IN
W.P.(MD) No.27880 of 2025
and
W.M.P.(MD) No.21655 of 2025

16.12.2025