

**(2014) 08 MAD CK 0244**

**In the Madras High Court**

**Case No :** W.P.(MD) No. 954 of 2014 and M.P.(MD) Nos. 1 and 2 of 2014

M. Ramajayam

APPELLANT

Vs

The Director of School Education

RESPONDENT

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**Date of Decision :** 21-08-2014

**Acts Referred:**

**Citation :** (2014) 08 MAD CK 0244

**Hon'ble Judges :** K.K. Sasidharan, J

**Bench :** Single Bench

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## **Judgement**

K.K. Sasidharan, J.—The petitioner was appointed by the fourth respondent as a B.T. Assistant in English, vide appointment order dated 20 January, 2010. The vacancy has arisen on account of the retirement of a Secondary Grade Teacher on 31 December, 2009.

2. The appointment of the petitioner as a Graduate Teacher against the post of Secondary Grade Teacher was made in accordance with the Government Order in G.O.Ms. No. 79, School Education (U1) Department, dated 14 June, 2002. The fourth respondent, after the appointment of petitioner, submitted a proposal to approve her appointment as B.T. Assistant in English. In the meantime, the second respondent granted permission to the fourth respondent to convert the post into B.T. Assistant in English, subject to certain conditions, vide proceedings dated 30 November, 2010. The fourth respondent, pursuant to the proceedings dated 30 November, 2010, issued a fresh appointment order to the petitioner on 30 November, 2010. The petitioner was denied her past service from 20 January, 2010 to 29 November, 2010, on account of the proceedings of the second respondent dated 30 November, 2010 and the subsequent appointment order dated 30 November, 2010. This made the petitioner to challenge the proceedings dated 30 November, 2010, on the file of the Chief Educational Officer, permitting conversion with effect from 30 November, 2010.

3. The third respondent filed a counter-affidavit, wherein it was contended that only after the appointment of the petitioner, proposal was submitted to the

Education Department for conversion. The order for conversion of Secondary Grade Teacher post to B.T. Assistant post was made with effect from 30 November, 2010. The petitioner was appointed only thereafter and as such, there is no question of taking into account the earlier service.

4. I have heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of respondents 1 to 3.

5. There is no dispute that originally there was a post of Secondary Grade Teacher at Columbu Alim Memorial High School, Ramanathapuram. The Management appointed Thiru. K. Sethuramu, as a teacher and on attaining the age of superannuation, he retired on 31 December, 2009. It was only in the said vacancy, the petitioner was appointed on 20 January, 2010. It is also not in dispute that the order of conversion was made only subsequently. The subsequent appointment order dated 30 November, 2010, was issued only to comply with the proceedings of the Chief Educational Officer dated 30 November, 2010. However, the fact remains that the petitioner has been working right from 20 January, 2010. The fresh appointment order given on 30 November, 2010 would not go to show that the petitioner was appointed for the first time, notwithstanding the fact that her appointment was made as early as on 20 January, 2010. The conversion of the post was made in accordance with the Government Order in G.O.Ms. No. 144, School Education (D1) Department, dated 04 July, 2008. The Government Order was not in substitution of the Regulations/Rules. The appointment was made in accordance with the Tamil Nadu Recognized Private Schools (Regulation) Rules 1974. The Government have not amended the Tamil Nadu Recognized Private Schools (Regulation) Rules 1974, subsequent to the issuance of Government Order in G.O.Ms. No. 144, School Education (D1) Department, dated 04 July, 2008. The petitioner, having worked as B.T. Assistant right from 20 January, 2010, is entitled to recognise her past service even after the conversion of post.

6. The order passed by the Chief Educational Officer permitting conversion should relate back to the date of appointment of the petitioner. Since the post of Secondary Grade Teacher was available for appointment in the school in question and the conversion was only the said post, necessarily the earlier appointment should be recognized by the second respondent and more particularly, on account of the fact that it was a sanctioned post. Therefore, I am of the view that the second respondent was not correct in imposing a condition that the subject conversion would take effect only from 30 November, 2010.

7. In the result, the impugned order is set aside and the matter is remitted to the second respondent for fresh consideration.

8. The second respondent is directed to pass appropriate orders deleting condition No. 2 and making it clear that the order would be effective from 20 January, 2010, the date on which the petitioner was appointed to the post in question.

9. In the upshot, I allow the Writ Petition. Consequently, the connected miscellaneous petitions are closed. No costs.