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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-07-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA No. 1841 of 2026

and

C.M.P.No.16644 of 2026

1. Secretary to Government
Department of Welfare of Differently Abled,
Secretariat,
Chennai -9.
2. The State Commissioner
Commissionerate for the Welfare of the
Differently Abled,
No.5, Kamarajar Salai,
Lady Wellington College Campus,
Chennai - 5
3. The Joint Director
Commissionerate for the Welfare of the
Differently Abled,
No.5, Kamarajar Salai,
Lady Wellington College Campus,
Chennai -5.
4. The Headmaster
Govt. High School for Hearing Impaired,
Virudhunagar,
Virudhunagar District.

..Appellant(s)

Vs

1. D. Rajesh
Secondary Grade Assistant,
Govt. High School for Hearing Impaired,
Virudhunagar,
Virudhunagar District.



2. S. Shelton
Secondary Grade Assistant,
Govt. High School for Hearing Impaired,
Virudhunagar,
Virudhunagar District.

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..Respondent(s)

Writ Appeal filed under Clause 15 of Letters Patent to set aside the impugned Order passed in W.P.No.20295 of 2020 dated 08.11.2024 and allow the above writ appeal.

For Appellant(s): Dr.R.Gouri, Government Counsel

For Respondent(s): Mr.D.Muthu Kumar for
M/s.Paul & Paul for R1 & R2

JUDGMENT

(Judgment of the Court was delivered by S.M.Subramaniam J.)

Under assail is the writ order dated 08.11.2024 passed in W.P.No.20295 of 2020.

2. Heard the learned counsel for the parties.

3. State preferred the present intra-Court Appeal. The respondent filed a writ petition challenging the order, cancelling the upgradation of the respondents from the post of Secondary Grade Teacher to B.T.Assistant.

4. The respondents were appointed as Secondary Grade Teachers on 20.11.2008 & 19.11.2008 respectively. They were posted in the Government High School for the Deaf at Erode and Dharmapuri, on certain emergency circumstances. The Government, considering the fact that Secondary Grade Teachers found it difficult to effectively handle the subjects, such as English,



Science and Maths for Classes 6th, 7th and 8th, on certain administrative exigency and to impart education to the special children in Government Schools, issued orders posting the respondents as upgraded graduate teachers, vide proceedings dated 19.11.2020. The proceedings of the Commissioner for differently abled would show that teachers possessing graduate teaching qualifications are upgraded considering certain administrative exigencies and to impart uninterrupted education to the special children studying in Government Schools. However, within a period of one month from the date of appointment as upgraded graduate teachers, the impugned order, cancelling upgradation was issued by the Commissioner, vide proceedings, dated 11.12.2020. The said cancellation order came to be challenged in the writ petition.

5. Pertinently, upgradation as graduate teacher was granted vide proceedings dated 19.11.2020 and the said order was cancelled on 11.12.2020, within a period of 22 days. The Department found that regular promotions are to be granted to eligible teachers waiting for promotion to the post of graduate teachers across the State of Tamil Nadu. Upgradation granted in violation of Rules, would deprive grant of regular promotion to all other qualified teachers, working in the category of secondary grade teacher. To mitigate certain emergency circumstances, upgradation was given and within a period of 22 days, the said upgradation was cancelled to protect the seniority and promotional opportunities of all other secondary grade teachers, serving across the State of Tamilnadu in Government School. Therefore, the



said upgradation would not provide any right. Upgradation cannot be equated with promotion. The post of graduate teachers are to be filled only by way of promotion or by way of direct recruitment as per the service rules in force. Whenever an administrative decision is taken to fill up the post of graduate teachers by way of promotion, the procedures as contemplated for grant of promotion under the service Rules are to be scrupulously followed i.e., panel is to be prepared and promotions are to be granted in accordance with the procedures contemplated.

6. Learned Government Counsel would submit that the sanctioned posts are not available. In the absence of sanctioned posts, upgradation was granted. Therefore, it cannot be continued. Thus, a decision has been taken to cancel the upgradation. That apart, certain Secondary Grade Teachers appointed by upgradation did not possess the Teachers Eligibility Test (TET) qualification. Therefore, they cannot be appointed as regular teachers in view of the Regulations issued by the National Council for Teachers Education and affirmed by the Hon'ble Supreme Court of India that TET is a mandatory qualification for appointment to teaching posts. Even, as on the date of upgradation of the respondents, TET is a mandatory qualification for appointment to teaching post.

7. The Writ Court has allowed the writ petition on the ground that no opportunity was given to the respondents. Upgradation is an administrative decision taken on administrative exigency and cancellation was done within a period of 20 days. Therefore, non-issuance of notice has not caused any



prejudice to the service right of the respondents. Upgradation of teachers on administrative exigency

7per se would not confer any right, since it is not a regular promotion granted in accordance with the rules in force. However, this Court made it clear that whenever an administrative decision is taken to fill up the sanctioned posts of graduate teachers, then a panel is to be prepared by considering the names of all the eligible teachers waiting to secure promotion and strictly in accordance with the service rules in force.

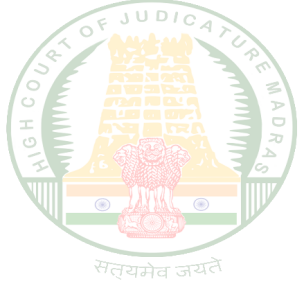
8. With these observations, the writ order dated 08.11.2024 passed in W.P.No.20295 of 2020, is set aside. Accordingly, the Writ Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (N.S.,J.)
08-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
VSI

To

1. D. Rajesh
Secondary Grade Assistant,
Govt. High School for Hearing Impaired,
Virudhunagar,
Virudhunagar District.
2. S. Shelton
Secondary Grade Assistant,
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**S.M.SUBRAMANIAM, J.
AND
N.SENTHILKUMAR, J.**

vsi

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