

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 09.08.2017****CORAM****THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM****W.P. Nos.15077, 15226 of 2017 &
connected W.M.Ps**

P.Charles Nelson ... Petitioner in W.P. No.15077 of 2017

T.Panneer Selvam ... Petitioner in W.P. No.15226 of 2017

Vs.

1. The Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Director of School Education,
DPI Complex, College Road,
Chennai – 600 006.
3. The Chairman & Teachers Recruitment Board,
E.V.K. Sampath Maligai,
College Road,
Chennai – 600 006. ... Respondents in both WPs

Prayer in W.P. No.15077 of 2017:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 1st respondent issued in G.O.Ms.No.110 School Education Sec 2(1) Department dated 26.05.2017 and the consequential Notification made by the 3rd respondent 03A/2017

dated 30.05.2017 in so far as the 10% vacancies earmarked to the Secondary Grade Teachers alone and to quash the same and to direct the respondents to consider the name of the petitioner for the post of P.G. Assistant (Economics) against the quota of 14 posts earmarked to the Secondary Grade Teachers.

Prayer in W.P. No.15226 of 2017:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 1st respondent issued in G.O.Ms.No.110 School Education Department dated 26.05.2017 and the consequential Notification made by the 3rd respondent 03A/2017 dated 30.05.2017 in so far as the 10% vacancies earmarked to the Secondary Grade Teachers alone and to quash the same and to direct the respondents to consider the name of the petitioner for the post of P.G. Assistant (Economics) against the quota of 14 posts earmarked to the Secondary Grade Teachers.

For Petitioners : Mr.T.Ranganathan,
Senior counsel,
Asstd. By Kandhan Duraisami

For Respondents : Mr.K.Venkata Raman,
Additional Advocate General VII,
Asstd. By Mr.C.C.Rangarajan,
Government Advocate.
for R1 & R2 in W.P.No.15077 of 2017.

Asstd. By Mr.M.Perumal,
Government Advocate.
for R1 & R2 in W.P.No.15226 of 2017.

Mr.K.Dhananjayan for R3.
Special Government Pleader.

COMMON ORDER

The Order passed by the first respondent issued in G.O.M.S.No.110, School Education Department dated 26.05.2017 and the consequential Notification made by the third respondent 03A/2017 dated 30.05.2017 in so far as the ten percent vacancies earmarked to the Secondary Grade Teachers alone and to quash the same and to direct the respondents to consider the name of the petitioners for the post of P.G. Assistant (Economics), against the quota of 14 posts earmarked to the Secondary Grade Teachers.

2. The /is arouse on account of the promotional opportunity provided to the category of Secondary Grade Teacher to the post of P.G. Assistants in the Education Department. The learned counsel for the writ petitioners contended that the writ petitioners are working in the same post of Secondary Grade Teachers for about 22 years and therefore their promotional opportunities to the post of P.G. Assistant is to be ensured. In this regard the learned counsel relied upon the letter issued by the Director of School Education on 03.06.2013.

3. On perusal of the letter it is a reply given to the Special Officer, Chief Minister's Special Cell furnishing reply to the queries caused by one Kamalakannan. In fact, relying on the reply given by the Director of School Education, the learned counsel contended that

ten percent of posts in the cadre of P.G. Assistant is reserved for promotion from the post of Secondary Grade Teachers. The learned counsel further contended that all such promotions to the post of P.G. Assistant from the cadre of Secondary Grade Teacher to be provided by way of transfer of service. To substantiate this contention no rule in this regard is produced by the writ petitioners. Thus, this court is unable to accept the arguments advanced in this regard.

4. The learned Additional Advocate General appearing on behalf of the respondents contended that the Government issued a G.O.110 School Education Department, dated 26.05.2017 amending the Tamilnadu School Educational Subordinate Service and Tamilnadu Higher Secondary Educational Service and the amendment reads as under :

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Tamil Nadu hereby makes the following amendment to the Special Rules for the Tamil Nadu Higher Secondary Educational Service (Section 37 in Volume II of the Tamil Nadu Services Manual, 1969).

The amendment hereby made shall come into force on 26.05.2017.

In the said rules, in rule 2, in sub-rule (b), in clause (ii), for the provisos, the following shall be substituted, namely:-

"Provided that fifty percent of the substantive vacancies in Category 1, 'Post Graduate Assistants in Academic subjects' under Class-II of the service shall be filled by direct recruitment and out of this, ten percent shall be filled from among the qualified Secondary Grade Teachers and other Teachers with Secondary Grade scale of pay working in Government Higher Secondary Schools, Government High Schools, recognized Higher Secondary Schools, High Schools, Middle Schools and Elementary Schools under the Local Bodies (Corporation or Municipal or Panchayat Union) and all Aided Managements:

Provided further that fifty percent of the substantive vacancies in category 2, "Post Graduate Assistants in Languages, under Class II of the service shall be filled by direct recruitment and out of this, ten percent shall be filled from the qualified Secondary Grade Teachers and other Teachers with Secondary Grade scale of Pay among working in Government Higher Secondary Schools, Government High Schools, recognized Higher

Secondary Schools, High Schools, Middle Schools and Elementary Schools under the Local Bodies (Corporation or Municipal or Panchayat Union) and all Aided Managements:

Provided also that if sufficient number of suitable Secondary Grade Teachers and other Teachers with Secondary Grade Scale of Pay working in the type of schools specified in the aforesaid provisos are not available for direct recruitment, such vacancies shall be filled up from other candidates available for selection in open market."

5. As per the amended Rule, it is clear that the category of Post Graduate Assistant shall be filled by Direct Recruitment and out of this, ten percent, shall be filled from the qualified Secondary Grade Teachers and other Teachers with Secondary Grade scale of pay among working in Government Higher Secondary Schools, Government High Schools, recognised Higher Secondary Schools, High Schools, Middle Schools and Elementary Schools under the local bodies(Corporation or Municipal or Panchayat Union and all aided managements).

6. Thus it is clear that ten percent of the total number of posts

in the category of P.G. Assistants to be filled from amongst the qualified persons in the cadre of Secondary Grade Teachers only by way of Direct Recruitment and not otherwise. Therefore the writ petitioners have to participate in the process of selection by applying for the post of P.G. Assistant.

7. The learned Additional Advocate General further contended that the writ petitioners have already applied and a call letter was issued for the post of P.G. Assistant and appeared in the written examination and issued with the Hall Ticket in this regard. Therefore it is for the writ petitioners to participate in the open recruitment process, against the ten percent reservation granted in the amended rule for appointment to the post of P.G. Assistant. There is no rule to provide appointment by way of transfer of service under the rules and the contentions raised in this regard by the writ petitioners deserve no consideration at all. सत्यमेव जयते

8. Thus, it is for the writ petitioners to participate in the selection process and get appointment to the post of P.G. Assistant in the event of success. In this view of the matter, no further adjudication is required. Accordingly, both the writ petitions stand dismissed. Consequently the connected miscellaneous petitions are

also closed.

09.08.2017

msvm/rpa

Speaking Order/Non Speaking Order

Index : Yes/No

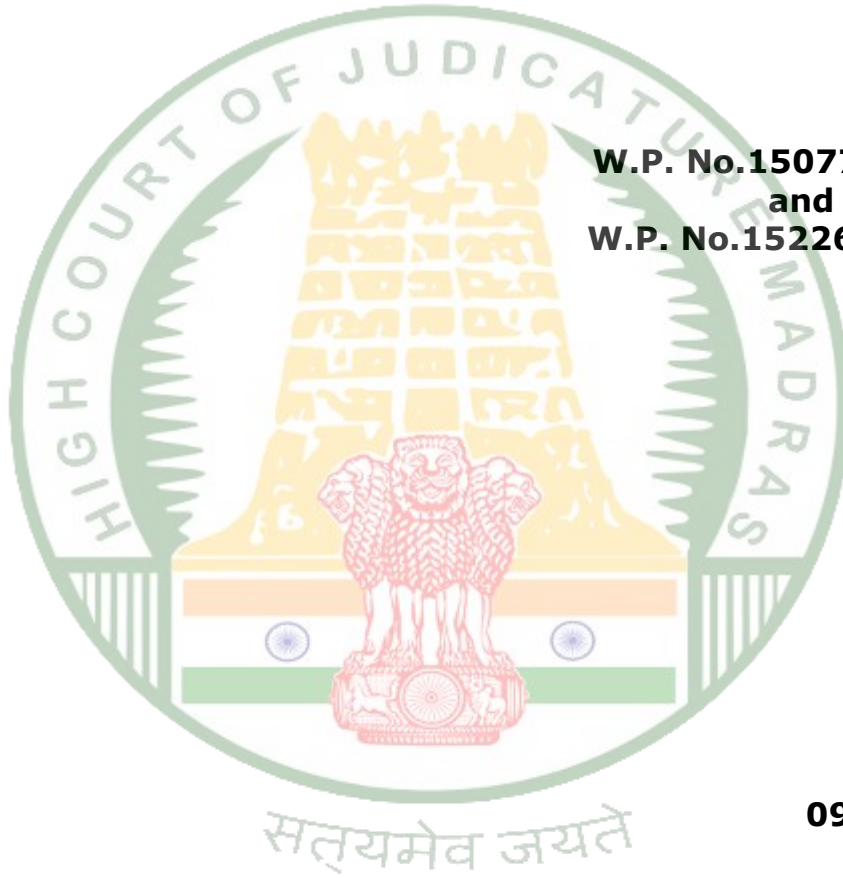
Internet : Yes/No

To

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S.M.SUBRAMANIAM,J.

msvm



**W.P. No.15077 of 2017
and
W.P. No.15226 of 2017**

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