

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.Nos.19618 & 19620 of 2009

1. S.Regghupathy (in WP.No.19618/09)
2. S.Rajesh (in WP.No.19620/09) ... Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.

2. The Director of School Education,
Nungambakkam, Chennai - 6.

... Respondents
(in both WPs)

Common Prayer: Writ petition filed under Article 226 of the Constitution of India, for a Writ of Certiorari, calling for the records of the respondents in connection with the impugned order issued by the 1st respondent in G.O.(Ms)No.221, School Education (R1) Department dated 27.08.2009 and quash the same.

For Petitioners: Mr.M.Ravi (in both WPs)

For Respondents: Mr.P.Raja, G.A. (for R1 & R2)
(in both WPs)

COMMON ORDER

The instant writ petitions are filed to quash the impugned orders issued by the 1st respondent in G.O.(Ms)No.221, School Education (R1) Department dated 27.08.2009.

2. The petitioners were initially appointed as a Secondary Grade Assistants in the year 1999. They are the Post Graduates and therefore was eligible to be appointed as B.T.Assistant. The post of Secondary Grade Teacher which was being held by the petitioners is the feeder category for the promotion to the post of B.T.Assistant. The petitioners state that the Government order of disbandment of posts of School Assistant / B.T.Assistant /Deputy Inspector of School to create 31 posts of Personal Assistant to Chief Education Officer has been done only

to favour the Head Masters of Higher Secondary School who belongs to the category-II of Class-I of Tamil Nadu Higher Secondary Education Service. The petitioners state that because of this order, their promotion avenues are affected. The petitioners therefore challenge the order dated 27.08.2009, dis-banning the posts of School Assistant / B.T.Assistant /Deputy Inspector of School.

3. Heard the counsel for the parties.

4. The creation of post and disbandment of post are purely an administrative discretion of the Government and the petitioners cannot have a right to demand either for creation of a post nor there can be a grievance against disbandment of post. The learned counsel for the respondents states that G.O.(Ms) No.221, School Education (R1) Department, dated 27.08.2009 has been acted upon. It is well settled that a Writ Court while exercising jurisdiction under Article 226 of the Constitution of India, should not interfere with the decision of the State unless the policy decision is totally perverse. The Hon'ble Supreme Court in the case of Mangalam Organics Limited Vs. Union of India, (2017) 7 SCC 221, held as under:-

"39. The matter can be looked into from another angle as well. When "power" is given to the Central Government to issue a notification to the effect not to recover duty of excise or recover lesser duty than what is normally payable under the Act, for deciding whether to issue such a notification or not, there may be various considerations in the mind of the Government. Merely because conditions laid in the said provisions are satisfied, would not be a reason to necessarily issue such a notification. It is purely a policy matter. No doubt, the principle against arbitrariness has been extended to subordinate legislation as well [see Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India [Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India, (1985) 1 SCC 641 : 1985 SCC (Tax) 121]]. At the same time, the scope of judicial review in such cases is very limited. Where the statute vests a discretionary power in an administrative authority, the court would not interfere with the exercise of such discretion unless it is made with oblique end or extraneous purposes or upon extraneous considerations, or arbitrarily, without applying its mind to the relevant considerations, or where it is not guided by any norms which are relevant to the object to be achieved."

Many other judgments on the very same point which are not been quoted since it is now well settled law.

4. The writ petitions as prayed for cannot be granted, as it is purely a matter of policy and further because the order in G.O.(Ms)No.221, School Education (R1) Department, dated 27.08.2009 has acted upon. Writ Petitions are dismissed. No Costs.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

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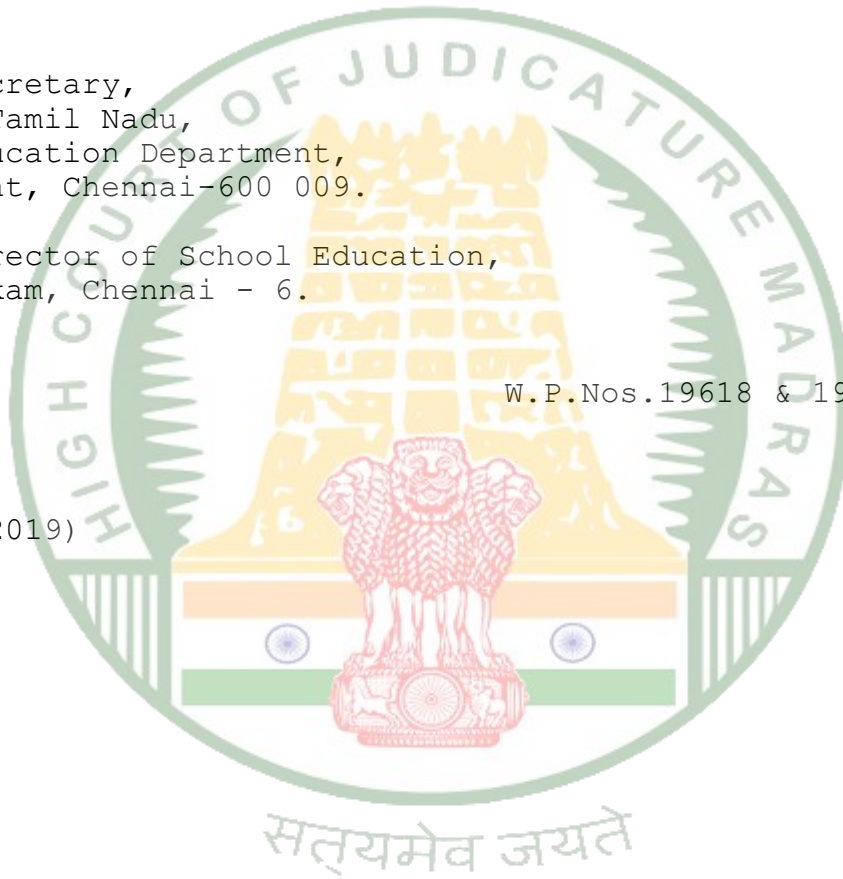
To

1. The Secretary,
State of Tamil Nadu,
School Education Department,
Secretariat, Chennai-600 009.

2. The Director of School Education,
Nungambakkam, Chennai - 6.

W.P.Nos.19618 & 19620 of 2010

PVS (CO)
SP(27/11/2019)



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