

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2019

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.A.Nos.3066 & 3235 of 2019
and
CMP Nos.19555 & 20480 of 2019

WA No.3066 of 2019

1. The Director of School Education,
DPI Campus,
Chennai - 600 006.
 2. The Joint Director of School Education (Personnel),
DPI Campus,
Chennai - 600 006.
 3. The Chief Educational Officer,
Villupuram District,
Villupuram.
 4. The Headmaster,
Government Girls Higher Secondary School,
Devapandalam - 606 402
Sankarapuram Taluk,
Villupuram.
 5. The Member Secretary,
Teachers Recruitment Board,
DPI Campus,
Chennai - 600 006.
- ... Appellants / Respondents

Vs.

S.Aruna ... Respondent / Petitioner

WA No.3235 of 2019

1. The Government of Tamilnadu,
Rep. by its Secretary,
School Education Department,
Fort St. George, Chennai - 9.

2. The Teachers Recruitment Board,
Rep. by its Member Secretary,
4th Floor, EVK Sampath Building,
DPI Campus,
College Road, Chennai - 600 006.

3. The Director of School Education,
College Road
Chennai - 6.

4. The Joint Director,
School Education (Secondary),
College Road,
Chennai - 6.

5. The Chief Educational Officer,
Ariyalur District,
Ariyalur.

6. The District Educational Officer,
Ariyalur, Ariyalur District.

7. The Headmaster,
Govt., Higher Secondary School,
Keelapazhuvur, Ariyalur - 621 707 Appellants/Respondents

Vs.

V.Premakumari Respondent/Petitioner

Writ Appeals filed under Clause 15 of the Letters Patent
against the Common Order dated 12.12.2018 made in W.P.Nos.27064
& 26120 of 2018.

Prayer in W.P.No.27064 of 2018: Writ Petition filed under
Article 226 of the Constitution of India praying for the
issuance of a Writ of certiorarified mandamus, to call for the
records relating to the order of the 4th respondent passed in his
proceedings Na.Ka.No.76064/C3/E2/2014 dated 14.09.2018
communicated through the 5th respondent in his proceedings
Na.Ka.No.0640/B1/2009 dated 01.10.2018 served on the petitioner
on 03.10.2018 and quash the same and direct the respondents 4
and 5 to permit the petitioner to continuously serve as B.T.Asst
(Maths) in the 7th respondent school and with salary, annual
increments from the year 2007, Selection Grade Pay on completion
of 10 years of service, i.e. from 01.06.2016 and 7th pay
commission benefits with all other benefits.

Prayer in W.P.No.26120 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the second respondent in relation to the impugned order in Na.Ka.No.025824/C3/E2/2016 dated 14.09.2018 and the consequential order in Na.Ka.No.101/2018 dated 28.09.2018 issued by the fourth respondent and to quash the same.

For Appellants : Mr.K.Karthikeyan
In both WAs. Government Advocate

For Respondent : Mrs.Dakshayani Reddy
in WA.No.3066/19

in WA No.3235/19: Mr.K.Venkataramani, Sr. Counsel
for Mr. V.Krishnamurthy

C O M M O N J U D G E M E N T

(Order of the Court was delivered by S.MANIKUMAR, J)

Being aggrieved by the common order made in WP Nos.27064 & 26120 of 2018 dated 12.12.2018, Government of Tamil Nadu, represented by the Secretary to School Education Department, Chennai and others have filed WA Nos.3066 & 3235 of 2019, seeking reversion of the above.

2. Short facts leading to the filing of the writ appeals are that Mrs.S.Aruna, respondent in WA No.3066 of 2019 and Mrs.V.Premakumari, respondent in WA No.3235 of 2019, have been appointed as teachers in Mathematics. At the time of their appointment, both of them possessed B.Sc. (Computer Science) with Mathematics as a ancillary subject. Thereafter, Mrs.V.Premakumar, respondent in WA No.3235 of 2019 has completed B.Sc. (Mathematics).

3. Based on clause No.20 of the orders of appointment dated 22.02.2006 and 01.03.2006, respectively, which stipulates that order of appointment is liable to be set aside, even without prior notice, when certificates relating to educational qualifications and other details are found to be false or of no value, after 12 years from the date of their appointment, as teachers in Mathematics, vide proceedings dated 14.09.2018, the Joint Director, School Education (Personnel), Chennai, 2nd appellant has cancelled the appointment of the respondents, in the writ appeals.

4. Being aggrieved, respondent in WA No.3066 of 2019, has filed WP No.26120 of 2018, for a writ of certiorarified mandamus, to call for the records of the Joint Director, School

Education (Personnel), Chennai, 2nd appellant in relation to the impugned order in R.C.No.025824/C3/E2/2016 dated 14.09.2018 and the consequential order in Na.Ka.No.101/2018 dated 28.09.2018 issued by the Head Master, Government Girls Higher Secondary School, Devapndalam, fourth appellant herein, and to quash the same.

5. Similarly, the respondent in WA No.3235 of 2019, has filed WP No.27064 of 2018 to call for the records relating to the order of the Joint Director, School Education (Personnel), Chennai, passed vide proceedings in R.C.No.025824/C3/E2/2016 dated 14.09.2018 communicated through the the Chief Educational Officer, Ariyalur District, the fifty appellant herein in his proceedings R.C.No.0640/B1/2009 dated 01.10.2018 served on her on 03.10.2018 and quash the same. Consequently, the respondents in the writ appeals have sought for a direction to the Joint Director, School Education (Secondary) Chennai and the Chief Educational Officer, fourth and fifth appellants, respectively, to permit the respondents to serve as B.T.Assistants (Mathematics) in appellant-School with salary, annual increments from the year 2007, grant selection grade of pay, on completion of 10 years of service i.e from 01.06.2016 and also 7th pay commission benefits.

6. Before the writ Court, reliance has also been made on an earlier order passed by this Court in WP No.22996 of 2012 dated 17.10.2012, by which a similar impugned order of termination was set aside, on the grounds inter alia that the petitioners therein served in the post of B.T. Assistant for more than 10 years. Before the writ Court contention has also been made that order made in WP No.22996 of 2012 dated 17.10.2012, has been implemented.

7. Before the writ Court further contention has been made that respondents, B.T.Assistant (Mathematics) teachers have performed to the satisfaction of the educational authorities and they have given results ranging from 91% to 100% in subject Mathematics. Respondents have specifically stated that for continuous period of five years (2007-08, 2009-10, 2010-11, 2012-13 and 2014-15) there was 100% results, in subject mathematics.

8. On behalf of the appellants, before the writ court, contention has been made by the learned Additional Advocate General that cancellation of appointment was only in tune with clause No.20 of the order of appointment, which provides that if the certificates are found to be false and invalid, then appointment would be cancelled without any prior notice.

9. Contention has also been made that respondents committed manipulation while filling up the application forms and thus, reliance has also been made on the forms.

10. Before the writ Court, learned Additional Advocate General has also placed reliance on decision of this Court in WP No.22702 of 2013 dated 10.07.2017 (R.Janaki Vs. The Teachers Recruitment Board, Chennai and others) and decisions of Hon'ble Supreme Court in Rakesh Kumar Sharma Vs. State (NCT of Delhi) and others, reported in 2013 (11) SCC 58 and Ashok Kumar Sharma and another vs. Chander Shekher and another, reported in 1993 Supp (2) SCC 611.

11. On the contra learned counsel for the respondents / writ petitioners have relied on the decisions of the Hon'ble Supreme Court in M.S.Mudhol and another Vs. S.D.Halegkar and Other, reported in 1993 (3) SCC 591, V.Natarajan Vs. Principal District Judge, reported in 1979 (1) MLJ 221 and Buddhi Nath Chaudhary and others vs. Abhai Kumar and other, in Appeal (Civil) No.1397 of 2001 dated 21.02.2001.

12. Adverting to the rival submissions and the decisions relied on by the learned counsel for both parties and while considering the issue as to whether it is open to the appellants to cancel the appointment of the respondents, relying on clause No.20 of the order of appointment, at clause No.7 of the common order made in WP Nos.27064 & 26120 of 2018 dated 12.12.2018, impugned before us, writ Court has ordered, as hereunder.

"7....But this contention cannot be accepted as the earlier part of para-20 gives a stipulation that the genuineness of the graduation certificate and +2 certificate must be ascertained immediately and not after ten years. Even assuming that it was done belatedly, the fault was not exclusively on the part of the petitioners. The respondent had the provision for verification of certificates. It is not the case of the respondents that the petitioners have manipulated the qualification certificates."

13. On the allegation of manipulation while filling up the application forms, writ Court wanted the appellants herein to produce the original application forms, but the appellants were not able to furnish the same on the grounds that documents have been destroyed after the expiry of 10 years and therefore, the documents were not available. Thus, on the above submission of manipulation while filling up the application forms, before the writ Court, appellants did not substantiate the same and insofar as Mrs.V.Premakumari, respondent in WA No.3235 of 2019 is concerned, even before the writ Court, submission has been made

by the learned counsel for the respondent that she has completed the B.Sc. (Mathematics) after entering into service and that the disqualification has been rectified.

14. After considering, the judgments relied on by both parties, and submissions, at clause No.15 and 16 of the common order made in WP Nos.27064 & 26120 of 2018 dated 12.12.2018, writ Court ordered as hereunder.

"15. It is evident from the case of the petitioners that they had the basic degree qualification, which is not disputed by the respondents. But the only ground on which the respondents cancelled the appointment of the petitioners is that the petitioners were not possessed of the requisite qualification on the date of their appointment and, therefore, they are liable for termination in view of clause 20. It is to be pointed out that the petitioners were appointed a decade before and the respondents have taken a long time to ascertain their qualification. In the interregnum, the petitioners have got themselves armed with the requisite qualification. Further, it is to be pointed out that the petitioners, though had a different degree, had fared well in the stream in which they were appointed by producing exemplary results continuously. Their merit speaks volumes through the results produced by them. The delay on the part of the respondents in taking action against the petitioners definitely sways the balance in favour of the petitioners. The delay caused by the respondents cannot be put against the petitioners at this belated point of time disabling them from continuing in service. The decision in Ashok Kumar's case (supra) relied on by the respondents comes to the aid of the petitioners. Further, the petitioners have also equipped themselves in Mathematics by obtaining the degree from open university. It cannot be said that the degree obtained from Open University is bad, as already the petitioners have got the basic degree in computer science. Therefore, the contention of the respondents that the degree obtained from Open University cannot be accepted is wholly unsustainable.

16. On a holistic consideration of the entire issue, this court is of the considered view that the order passed by the respondents is perverse and, per se unsustainable and deserves to be quashed. Accordingly, the writ petitions are allowed and the impugned orders are quashed. The respondents are directed to reinstate the petitioners and grant them all consequential monetary and attendant benefits to which the petitioners

are entitled. However, there shall be no order as to costs."

15. Being aggrieved, instant writ appeals have been filed on the grounds that the writ Court has failed to consider that the authorities have every right to pass orders on the grounds of relevant rules and existing Government orders in force; Writ Court has failed to consider the fact that the respondents/writ petitioners are not entitled for appointment to the post of BT Assistant in Mathematics Subject, since they were in possession of B.Sc.Ed.(Computer Science); Writ Court has failed to consider the fact that whether there is any rule or government orders to sustain the claim of the respondents, before passing orders in the writ petitions; Writ Court has failed to appreciate that there are no provision or government order for continuing them in service, as a matter of right; and if the order of the writ Court is implemented it will set a bad precedent and will open floodgate of litigation all over the State.

16. Mr.K.Karthikeyan, learned Government Advocate, made submissions on the above grounds and sought for reversal of the common order made in WP Nos.27064 & 26120 of 2018 dated 12.12.2018.

17. That apart, placing reliance on the decision of the Hon'ble Supreme Court in Nidhi Kaim Vs. State of Madhya Pradesh and others reported in 2016 (7) SCC 615, Mr.K.Karthikeyan, learned Government Advocate submitted that delay in taking action for cancellation of the appointment, ought not to have been put against the appellants, when there is a case of securing employment or admission by unfair means.

18. Mr.K.Venkataramani, learned Senior Counsel appearing for the respondent in W.A. No.3235 of 2019 i.e. V.Premakumari, submitted that she has completed B.Sc. Mathematics and that the same has been recorded in her service register. Perusal of the copy of the service register produced before us shows that B.Sc. Mathematics has been entered in the Service Register.

19. To sustain the order made in respect of Mrs.Aruna, respondent in WA No.3066 of 2019, Ms.Dakshayini Reddy, learned counsel for the respondent submitted that as of now, respondent is pursuing her 3rd year in B.Sc. Mathematics degree and by the end of the next academic year, she would be completing her B.Sc. (Mathematics) degree.

20. Placing reliance on a decision of the Hon'ble Supreme Court in Sukh Bilash Thakur, reported in 2019 (4) SCC 258, Ms.Dakshayini Reddy, learned counsel for the respondent in WA No.3066 of 2019, submitted that when no suppression or fraud is

discernible and that the respondent has been appointed after verification of her qualification, through a process of competitive examination, Hon'ble Supreme Court held that the order of reversion after a passage of 25 years, was held as highly unjust, inequitable, arbitrary and suffering from the vice of unreasonableness and on the facts and circumstances of the case on hand, submitted that cancellation of appointment, after 12 years from the date of appointment, solely relying on clause Nos.19 & 20 of the appointment order dated 22.02.2006, is illegal and rightly set aside by the writ Court.

21. Decisions relied on by the learned counsel for the parties before the writ Court and considered at paragraph Nos.13 and 14 of the order are extracted hereunder.

13. Reliance was placed by the petitioners on the following decisions:-

(i) M.S.Mudhol and another vs. S.D.Halegkar and others (1993 (3) SCC 591)

"6. Since we find that it was the default on the part of the 2nd respondent, Director of Education in illegally approving the appointment of the first respondent in 1981 although he did not have the requisite academic qualifications as a result of which the 1st respondent has continued to hold the said post for the last 12 years now, it would be inadvisable to disturb him from the said post at this late stage particularly when he was not at fault when his selection was made. There is nothing on record to show that he had at that time projected his qualifications other than what he possessed. If, therefore, inspite of placing all his cards before the selection committee, the selection committee for some reason or the other had thought it fit to choose him for the post and the 2nd respondent had chosen to acquiesce in the appointment, it would be inequities to make him suffer for the same now. Illegality, if any, was committed by the selection committee and the 2nd respondent. They are alone to be blamed for the same."

(ii) V.Natarajan vs. Principal District Judge (1979 1 MLJ 221)

"6. Apart from the fact that the impugned order of termination of services is vitiated for the reasons that it has been passed without following the principles of natural justice in that the petitioner, has not been given any show cause notice why his services should not be terminated, before his order of probation was made, the order cannot also be sustained as the respondent is barred by the plea of equitable

estoppel in questioning the appointment made by him in going back on his own orders regularising the services of the petitioner from the year 1967 and also declaring completion of his probation in the year 1969."

(iii) Buddhi Nath Chaudhary and others vs. Abhai Kumar and others (Appeal (Civil) No.1397 of 2001 dated 21.02.2001)

"The selected candidates, who have been appointed, are now in employment as Motor Vehicle Inspectors for over a decade. Now that they have worked in such posts for a long time, necessarily they would have acquired the requisite experience. Lack of experience, if any, at the time of recruitment is made good now. Therefore, the new exercise ordered by the High Court will only lead to anomalous results. Since we are disposing of these matters on equitable consideration, the learned counsel for the contesting respondents submitted that their cases for appointment should also be considered. It is not clear whether there is any vacancy for the post of Motor Vehicle Inspectors. If that is so, unless any one or more of the selected candidates are displaced, the cases of the contesting respondents cannot be considered. We think that such adjustment is not feasible for practical reasons. We have extended equitable considerations to such selected candidates who have worked in the post for a long period, but the contesting respondents do not come in that class. The effect of our conclusion is that appointments made long back pursuant to a selection need not be disturbed. Such a view can be derived from several decisions of this Court including the decisions in Ram Sarup vs. State of Haryana & Ors., 1979 (1) SCC 168; District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram & Anr. vs. M. Tripura Sundari Devi, 1990 (3) SCC 655; and H.C.Puttaswamy & Ors. vs. The Honble Chief Justice of Karnataka High Court, Bangalore & Ors., 1991 Supp. (2) SCC 421. Therefore, we must let the matters lie where they are."

14. The learned AAG placed reliance upon the following decisions:

(i) W.P.No.22702 of 2013 (R.Janaki vs. the Teachers Recruitment Board, Rep. by its Member Secretary, Chennai and others)

This was a decision, where, a candidate possessing a degree in Zoology and who was not able to

handle classes in Mathematics; the appointment itself was in the year 2007 and termination was in the year 2017. Prior to cancellation show cause notice has been issued. It was a case where in the application form, the qualification has been wrongly mentioned. Such is not the case on hand. Further, in the present case, the documents have already been destroyed.

(ii) 2013 (11) SCC 58 (Rakesh Kumar Sharma vs. State (NCT of Delhi) and others)

In this case, the letter of offer of appointment was issued which was provisional and it is subject to verification of educational qualification regarding eligibility, character verification etc. Further, the process of verification and notice of termination was issued within a very short span of time. The facts in the present case are totally different from the facts in the above cited decision.

(iii) 1993 Supp (2) SCC 611 (Ashok Kumar Sharma and another vs. Chander Shekher and another)

This is a case where the issue was whether the candidate must possess the requisite qualification on the date of application or it is enough if the candidate possesses the qualification on the date of interview. It was held that the candidate must possess the requisite qualification on the date of application, but, it was held that appointment made in that particular case need not be disturbed. It was also held that it is unreasonable to quash the appointment after 10 years. This case is more in support of the case of the petitioners."

22. Though Mr.K.Karthikeyan, learned Government Advocate made an attempt to distinguish the judgment of the Hon'ble Supreme Court in Ashok Kumar Sharma and another vs. Chander Shekher and another reported in 1993 Supp (2) SCC 611, by relying on the decision of the Hon'ble Supreme Court in Nidhi Kaim Vs. State of Madhya Pradesh and Others, reported in 2016 (7) SCC 615, we are not inclined to accept the said contention for the reason that Nidhi Kaim's case, is a case of mass copying and use of unfair means on a large scale and thus for the said reasons, examination itself was cancelled. At this juncture, we deem it fit to consider, what is a precedent? If facts are different and law laid down on the facts and circumstances, whether a judgment can be taken as precedents, we deem it fit to consider few decisions.

(i) In Oriental Insurance Company Limited Vs. Smt.Raj Kumari and others reported in 2007 AIR SCW 7149, the Supreme Court held as follows:

Reliance on the decision without looking into the factual background of the case before it is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving a judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. According to the well-settled theory of precedents, every decision contains three basic postulates (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is in authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See: State of Orissa Vs. Sudhansu Sekhar Misra and others (AIR 1968 SC 647) and Union of India and others Vs. Shanwanti Devi and others (1996 (6) SCC 44)). A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in Act of Parliament. In Quinn Vs. Leathem (1901) AC 495 (H.L.), Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides.

Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact-situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's Theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgements of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for Judges to embark into lengthy

discussions but the discussion is meant to explain and not to define, Judges interpret statutes, they do not interpret judgements. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. Vs. Horton (1951 AC 737 at p.761), Lord Mac Dermot observed

"The matter cannot, of course, be settled merely by treating the ipsissima verba of willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge" (emphasis supplied)

(ii) In Bihar School Examination Board v. Suresh Prasad Sinha reported in (2009) 8 MLJ 1306 (SC), Their Lordships of the Hon'ble Apex Court, considered some of the earlier decisions, on the law of Precedent, as follows:

"14. The Courts should guard against the danger of mechanical application of an observation without ascertaining the context in which it was made. In C.I.T v. Sun Engg. Works (P) Ltd. AIR 1993 SC43 : (1992) 4 SCC 363 this Court observed:

"It is neither desirable nor permissible to pick out a word or a sentence from the judgment of this Court, divorced from the context of the question under consideration and treat it to be complete 'law' declared by this Court. The judgment must be read as a whole and the observations from the judgment have to be considered in the light of the questions which were before this Court. A decision of this Court takes its colour from the questions involved in the case in which it is rendered and while applying the decision to a later case, the Courts must carefully try to ascertain the true principle laid down by the decision of this Court and not to pick out words or sentences from the judgment, divorced from the context of the questions under consideration by this Court, to support their reasonings."

It is also necessary to keep in mind the following principles laid down in Government of Karnataka and Others v. Gowramma and Others AIR 2008 SC 863, with reference to precedential value of decisions:

"Reliance on the decision without looking into the factual background of the case before it is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving a judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. According to the well-settled theory of precedents, every decision contains three basic postulates (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See: State of Orissa v. Sudhansu Sekhar Misra and Others AIR 1968 SC 647 and Union of India and Others v. Dhanwanti Devi and Others (1996) 6 SCC 44. A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in an Act of Parliament. In Quinn v. Leathern (1901) AC 495 (H.L.), EARL OF HALSBURY LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are

found and a case is only an authority for what it actually decides.

Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes.

The following words of LORD DENNING, in the matter of applying precedents have become locus classicus:

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases. One should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.

.. .. .

Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it."

15. In *Sarva Shramik Sanghatana (K.V), Mumbai v. State of Maharashtra and Others*, AIR 2008 SC 946 : (2008) 1 MLJ 137, this Court cited the following

passage from *Quinn v. Leathern* (1901 AC 495), with approval at p.141 of MLJ:

"15. Now before discussing the case of *Allen v. Flood* (1898) AC 1 and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but are governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical Code, whereas every lawyer must acknowledge that the law is not always logical at all."

16. In *Bhavnagar University v. Pali tana Sugar Mills Pvt. Ltd* AIR2003 SC511 : (2003) 2 SCC 111, this Court observed:

"It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision."

17. As held in *Bharat Petroleum Corporation Ltd. and Another v. N.R. Vairamani and Another* AIR 2004 SC 4778 : (2004) 8 SCC 579 : (2004) 4 MI J 147, a decision cannot be relied on without disclosing the factual situation. In the same judgment, this Court also observed at p. 151 of MLJ:

"9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of the context. These observations must be read in the context in which they appear to have been stated."

23. In the light of the law laid down by the Hon'ble Supreme Court on precedents, we are of the view that Nidhi Kaim's case [quoted supra] cannot be applied to the case on hand.

24. As stated supra, while considering the decisions relied on by the learned counsel for both parties, writ Court has observed that the respondents herein were appointed as B.Sc. Mathematics teachers, on 22.02.2006 and 01.03.2006 respectively, and after a decade, taken for ascertaining the educational qualifications, precisely 12 years, vide order dated 14.09.2016 cancelled the appointments, on the basis of clause Nos.19 and 20 of the orders of appointment.

25. As stated supra, during the interregnum period one of the respondents Mrs.V.Premakumari [WA.No.3235 of 2019], has cleared B.Sc. Mathematics. As of now, another respondent S.Aruna, in WA No.3066 of 2019, would complete her degree in Mathematics in 2020.

26. Even in the decision, Sukh Bilash Thakur's case [quoted supra] relied on by Ms.Dakshayani Reddy, learned counsel for the respondent in WA No.3066 of 2019, the Hon'ble Supreme Court while finding that there was no case of suppression or fraud, interfered with the order of reversion of the appellant therein and since the appellant therein viz., Sukh Bilash Thakur, had retired from service, while setting aside the order of reversion, the Hon'ble Supreme Court directed pensionary and other retiral benefits be paid to the appellant therein with interest.

27. It is not the case of the appellants that the respondents have misrepresented, at the time of securing appointment. Allegation of malpractice has not been substantiated. There is an inordinate delay of 12 years in verifying the details of the educational qualifications. Performance of the respondents were found to be good, to be precise, it is more than 100% in subject mathematics, for the last five years. By considering the decisions of the Hon'ble Supreme Court and on the facts and circumstances of the case, writ Court has rightly rejected the contention of the appellants herein and issued directions to reinstate the respondents in service and grant them all consequential monetary and attendant benefits to which the respondents are entitled.

28. Going through the entire material on record and in the light of the decisions of the Hon'ble Supreme Court, considered, we are not inclined to interfere with the common order made in WP Nos.27064 & 26120 of 2018 dated 12.12.2018.

29. In the result, both the writ appeals are dismissed. Appellants are directed to reinstate the respondents within a period of three weeks from the date of receipt of a copy of this order and grant them with all consequential monetary and attendant benefits, as directed by the writ Court. No Costs. Consequently, the connected civil miscellaneous petitions are closed.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

ars

To

1. The Director of School Education,
DPI Campus,
Chennai - 600 006.
2. The Joint Director of School Education (Personnel),
DPI Campus,
Chennai - 600 006.
3. The Chief Educational Officer,
Villupuram District,
Villupuram.
4. The Headmaster,
Government Girls Higher Secondary School,
Devapandalam - 606 402
Sankarapuram Taluk,
Villupuram.
5. The Member Secretary, सत्यमेव जयते
Teachers Recruitment Board,
DPI Campus, Chennai - 600 006.
6. The Secretary,
Government of Tamilnadu,
School Education Department,
Fort St. George, Chennai - 9.
7. The Joint Director of School Education (Personnel),
DPI Campus,
Chennai - 600 006.

8. The Chief Educational Officer,
Ariyalur District,
Ariyalur.

9. The District Educational Officer,
Ariyalur, Ariyalur District.

10. The Headmaster,
Govt., Higher Secondary School,
Keelapazhuvur, Ariyalur - 621 707

11. The Joint Director of School Education (Secondary),
College Road, Chennai - 600 006.

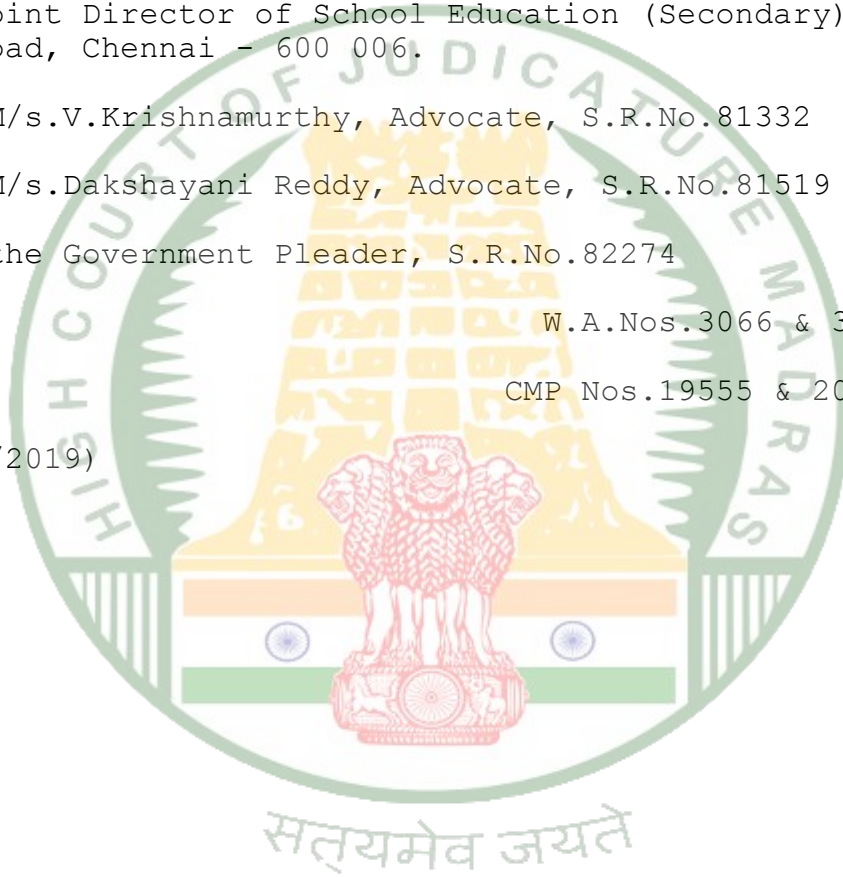
+1 cc to M/s.V.Krishnamurthy, Advocate, S.R.No.81332

+1 cc to M/s.Dakshayani Reddy, Advocate, S.R.No.81519

+1 cc to the Government Pleader, S.R.No.82274

W.A.Nos.3066 & 3235 of 2019
and
CMP Nos.19555 & 20480 of 2019

(CO)
SSM(18/10/2019)



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