



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.399 of 2014

and

M.P(MD)No.2 of 2014

Against WP(MD)No.14979 of 2010

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- 01.State of Tamil Nadu,
Rep. by its Secretary to Government,
Higher Education Department,
Chief Secretariat, Chennai.
- 02.The Director of School Education,
College Road, Chennai.
- 03.The Chief Educational Officer,
Tiruchirappalli.
- 04.The District Educational Officer,
Tiruchirappalli. ... Appellants/Respondents 1 to 4
Vs.
- 01.P.E.K.R.Murugadass ... 1st Respondent / Writ Petitioner
- 02.Secretary & Correspondent,
E.R. Higher Secondary School,
(Near) Anna Statue,
Chinthamani,
Tiruchirappalli - 620 002. ... 2nd respondent/5th Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 28.03.2012 passed in W.P(MD)No.14979 of 2010.

Prayer in WP(MD). 14979/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ, order or direction in the nature of a WRIT OF DECLARATION declaring that the G.O.Ms.No.525 dated 29.12.1997 is unconstitutional in so far as the petitioner concerned as it imposes a ceiling limit of the sanctioned post of Physical Education Teacher to a maximum of three and consequently direct the 4th respondent to approve the appointment of the petitioner to the post of Physical Education Teacher with effect from 02.08.2010 with all consequential benefits.



For Appellants : Mrs.S.Srimathy,
Special Government Pleader
For R-1 : Mr.T.Antony Arul Raj
For R-2 : Mr.V.Paneerselvam

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JUDGMENT

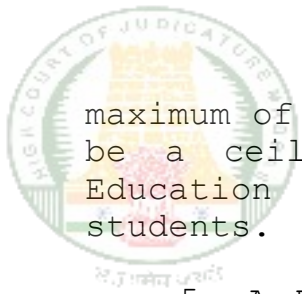
**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

This Writ Appeal is directed against the order dated 28.03.2012 passed in W.P(MD)No.14979 of 2010, which was filed for a declaration declaring that G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, is unconstitutional insofar as the writ petitioner is concerned as it imposes a ceiling limit of the sanctioned post of Physical Education Teacher to a maximum of three.

2. The writ petition was contested based on the decision reported in **(2010) 2 MLJ 277 (Director of School Education, Chennai and others vs. K.Uma)**. G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, has provided that for the schools with the strength of over 400, one post of Physical Director will be given by upgradation of the existing post of Physical Education Teacher.

3. The writ petitioner's case is that he is employed in the second respondent School from the year 2001 as a Waterman and he was promoted as Junior Assistant in the year 2005. Thereafter, he had qualified himself with the degree of Bachelor of Physical Education to become a Physical Education Teacher. At the time of petitioner joining, in the second respondent school, there were 2353 students studying. The Director of School Education had sanctioned six posts of Physical Education Teachers on 13.12.1968 and one post of Physical Director. On the date of the writ petition, there were five Physical Education Teachers, of which one person retired from service. The second respondent school had appointed the writ petitioner in the retirement vacancy on 12.11.2010. After such appointment, the second respondent school had submitted a proposal before the District Educational Officer, Tiruchirappalli, fourth appellant herein, for approval. However, the same was returned stating that G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, stipulates upper ceiling limit of three Physical Education Teachers and therefore, the appointment made in the second respondent school cannot be approved and due to that reason, the appointment of the writ petitioner was not approved.

4. As per G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, when the strength of the Classes VI to X in High Schools exceeds 250, one post of Physical Education Teacher will be sanctioned and for every additional strength of 300, one additional post of Physical Education Teacher will be sanctioned subject to a



maximum of 3. Therefore, the petitioner contended that there cannot be a ceiling for the number of appointments for the Physical Education Teachers as it should be proportional to the number of students.

5. A Division Bench of this Court in the decision reported in (2010) 2 MLJ 277(cited supra), held that the above said G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, needs to be given a liberal interpretation and granted liberty to the Government to reconsider the matter and issue a reasonable, viable and appropriate norms with the regard to the appointment of Physical Education Teachers in the schools as per the strength of the students. It would be useful to extract the relevant paragraphs of the said judgment as hereunder:

"22.If physical education is appropriate, good sportsmen and excellent athletes would be made. In Mythology, Rama and Arjuna were able to marry Sita and Drowpadi respectively and win in battles as they were good in "Archery". It was possible because of the excellent physical education and training they underwent in their "Gurukulam". Nowadays gurukulam are "Schools" and therefore physical education needs to be given more attention in schools. Achievements of Sachin (sic)Tendulkar, P.T.Usha, Abhinav Bindra are basically because of good physical education and training. In Schools alone, young talents could be identified and they could be groomed in the specific sports and games in appropriate way for future excellence.

23. As stated above, the normal understanding of the above government order with regard to Physical Education Teachers is that the High Schools would have maximum number of three Physical Education Teachers and Higher Secondary School would be added one more Physical Education Director in the name of Physical Education Director. However, there cannot be any ceiling with regard to the strength of teachers as the same is bound to vary/increase as per the strength of the student's. When the student strength is increased, the ceiling has to be removed and required more Physical Education Teachers are to be appointed, otherwise the students would suffer irreparably and the government order would go against the very scheme of education.

24. Hence G.O.Ms.No.525 needs to be given a liberal interpretation and the government is at liberty to reconsider the matter and issue reasonable viable



and appropriate norms with regard to appointment of physical education teachers in the schools as per the strength of students, considering the observations made by this Court expeditiously."

6. Paragraph No.24 of the above judgment has specifically directed the Government to reconsider the matter and give a liberal interpretation with regard to the appointment of Physical Education Teachers in schools proportional to the strength of the students. However, till today such exercise has not been completed by the appellants.

7. As stated above, the second respondent school had more than 2000 students studying on the date of filing of the writ petition. By applying the ratio in **(2010) 2 MLJ 277**(cited supra), as per G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, without limiting the maximum number, appointment of the writ petitioner ought to have been approved. In view of the same, the learned single Judge had given a direction to the first appellant herein to consider the approval of the appointment of the writ petitioner as Physical Education Teacher with effect from 02.08.2010. However, the appellants have not so far considered the same, but preferred the present writ appeal before this Court.

8. Therefore, once again, the first appellant is directed to apply the ratio in the said judgment of the Division Bench and pass appropriate orders granting approval of the appointment of the writ petitioner, who is appointed in the sanctioned post as Physical Education Teacher with effect from 02.08.2010, within a period of four months from the date of receipt of a copy of this judgment.

9. In the result, the order of the learned single Judge dated 28.03.2012 passed in W.P(MD)No.14979 of 2010, is hereby confirmed and the Writ Appeal is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

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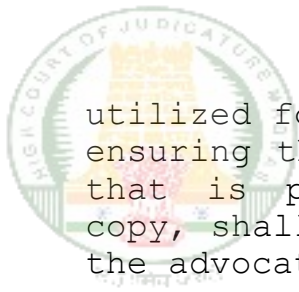
/ /2021

Sub Assistant Registrar(CS)

pm

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To

01.State of Tamil Nadu,
Rep. by its Secretary to Government,
Higher Education Department,
Chief Secretariat, Chennai.

02.The Director of School Education,
College Road, Chennai.

03.The Chief Educational Officer,
Tiruchirappalli.

04.The District Educational Officer,
Tiruchirappalli.

+1 CC to Mr.T.ANTHONY ARUL RAJ,
Advocate (SR-1545[F] dated
21/01/2021)

W.A(MD)No.399 of 2014

20.01.2021

VB (03.02.2021) 5P 6C