



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.NO.1842 OF 2022  
AND WMP.NO.1988 OF 2022

1.P.Anbarasu  
2.J.P.Ravi

... Petitioners

vs.

1. State of Tamil Nadu,  
Rep. By its Principal Secretary to Government,  
School Education Department,  
Fort St.George, Secretariat,  
Chennai-600 009.

2. The Commissioner of School Education,  
DPI Campus, College Road,  
Chennai-600 006.

3. The Joint Director of School Education  
(Higher Secondary),  
DPI Campus, College Road,  
Chennai-600 006.

.. Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the respondents from granting promotion to the post of P.G. Assistant by drawing panel for the second time for the previous panel year 2021 as on 01.01.2021 in violation of Section 7 of Tamil Nadu Government Servants (Conditions of Service) Act, 2016, as well as the Ratio Rule earmarking 2% vacancies meant for non-teaching staff in school Education Department as per Special Rules for Tamil Nadu Higher Secondary Education Service, by considering the representation submitted by the petitioners, within a time frame.

For Petitioners  
For Respondents

: Mr.G.Sankaran  
: Mr.V.Nanmaran,  
Additional Government Pleader



## O R D E R

By consent, this Writ Petition is taken up for final disposal.

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2. The prayer in the writ petition is for a Mandamus forbearing the respondents from granting promotion to the post of P.G. Assistant by drawing panel for the second time for the previous panel year 2021 as on 01.01.2021 in violation of Section 7 of Tamil Nadu Government Servants (Conditions of Service) Act, 2016, as well as the Ratio Rule earmarking 2% vacancies meant for non-teaching staff in school Education Department as per Special Rules for Tamil Nadu Higher Secondary Education Service, by considering the representation submitted by the petitioners, within a time frame.

3. The petitioners are working as Junior Assistant in School Education Department and they are qualified with Bachelor Degree, Post Graduate Degree and B.Ed., degree and thereby, they are eligible for appointment to the post of Post Graduate Assistant. The post of PG Assistant is governed by the Special Rules for Tamil Nadu Higher Secondary Education Service. As per the ratio rule prescribed in the Special Rules, 50% of vacancies of PG Assistant to be filled up by direct recruitment, 48% vacancies of PG Assistant post to be filled by promotion and 2% vacancies of PG Assistant to be filled by recruitment by transfer from eligible persons working in Ministerial Service in School Education Department.

4. As per G.O.(4D) No. 21, School Education Department dated 02.11.2011, the panel was drawn to fill up 2% vacancies meant for Ministerial Staff in the year 2013 as on 01.01.2013 and the same was implemented. Whereas for the year 2014, the panel was drawn as on 01.01.2014 by the second respondent, but the said G.O. was not implemented. Therefore, a writ petition was filed in W.P.No.16016 of 2019, wherein this Court by referring to the fact that no panel was drawn to fill up 2% vacancies in the post of P.G. Assistant from the year 2018 and accordingly, directed to draw panel forthwith from among the eligible persons in Ministerial Service in implementation of G.O.(4D) No.21 dated 02.11.2011 by order dated 16.10.2019.

5. The second respondent has drawn panel for the post of PG Assistant for the year 2021 and also prepared panel for 2% vacancies earmarked for non-teaching staff and the aforesaid



Government Order was given effect to by the Department. Now when the panel was prepared for the year 2022 as on 01.01.2022, the second respondent proceed to prepare panel for the second time for the same academic year 2021 as on 01.01.2021 in gross violation of procedure established by law, without including the name of the petitioners in the 2% vacancies earmarked for non-teaching staff in School Education Department.

6. When there are 424 vacancies within 2% category from the year 2014 onwards, the respondents proceed to fill up only 135 persons from non-teaching staff in violation of ratio rule. Therefore, petitioners and others have filed W.P.No.14928 of 2021 to consider to grant promotion for non teaching staff in the Education Department by calculating only 2% vacancies from the panel year 2014, following year wise panel and for other reliefs and the said writ petition is pending.

7. According to the petitioners, the respondents have issued proceedings for conducting counseling for transfer and promotion for the year 2022, wherein the promotion counseling for the post of P.G. Assistant is scheduled to be held on 15.02.2022 and the respondents are taking steps to grant promotion to the post of P.G. Assistant based on 2021 panel, even without publication of regular panel.

8. The learned counsel for the petitioners submitted that the petitioners have also submitted an objection to the respondents Department by way of representation dated 28.12.2021, but so far the respondents have not considered the objection / representation of the petitioners and therefore, it would be suffice if a direction is given to the Commissioner of School Education Department / second respondent to consider the objection / representation of the petitioners herein and pass appropriate orders at the earliest.

9. The Writ Petition came up for admission on 02.02.2022 and posted today for getting instructions.

10. Considering the limited scope of prayer sought for by the petitioners, this Court is inclined to direct the Commissioner of School Education Department, Chennai / second respondent herein to consider the petitioners objection / representation dated 28.12.2021 on its own merits and pass orders in accordance with law on or before 15.02.2022. It is needless to state that the petitioners shall also furnish a copy



of the objection dated 28.12.2021 along with this order to the second respondent.

11. The Writ Petition stands disposed of . No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Jvm

To

1. The Principal Secretary to Government,  
State of Tamil Nadu,  
School Education Department,  
Fort St.George, Secretariat,  
Chennai-600 009.
2. The Commissioner of School Education,  
DPI Campus, College Road,  
Chennai-600 006.
3. The Joint Director of School Education (Higher Secondary),  
DPI Campus, College Road,  
Chennai-600 006.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.8254(15/03/2022)  
+1cc to the Government Pleader, S.R.No.8311(15/03/2022)

W.P.No.1842 of 2022

RR(CO)  
PM/08/02/2022