



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**W.P (MD) Nos. 2274 to 2278 of 2022 and
W.M.P. (MD) Nos. 1979, 1980, 1983, 1985, 1986, 1987, 1989,
1990, 1993 and 1994 of 2022**

A.Thomas,
Block Resource Teacher Educator,
Block Resource Center,
Nanguneri,
Tirunelveli District.

... Petitioner in
W.P. (MD) No. 2274 of 2022

Anitha Rose,
Block Resource Teacher Educator,
Block Resource Center,
Kalakad,
Tirunelveli District.

... Petitioner in
W.P. (MD) No. 2275 of 2022

C.Sutha,
Block Resource Teacher Educator,
Block Resource Center,
Palayamkottai Rural,
Tirunelveli District.

... Petitioner in
W.P. (MD) No. 2276 of 2022

S.Srividhya,
Block Resource Teacher Educator,
Block Resource Center,
Naguneri,
Tirunelveli District.

... Petitioner in
W.P. (MD) No. 2277 of 2022

C.S.Rajan,
Block Resource Teacher Educator,
Block Resource Center,
Naguneri,
Tirunelveli District.

... Petitioner in
W.P. (MD) No. 2278 of 2022



-Vs-

1. The Government of Tamil Nadu,
Represented by its Principal Secretary
to Government (School Education),
Fort St.George,
Chennai - 600 009.

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

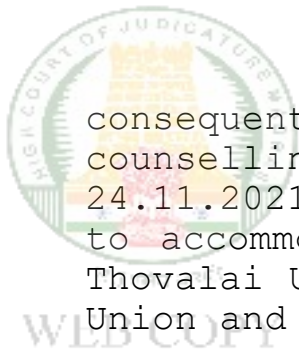
3. The Joint Director (Personal),
Department of School Education,
DPI Campus, College Road,
Nungampakkam,
Chennai - 600 006.

4. The Additional Chief Educational Officer,
Kanyakumari,
Kanyakumari District.

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

... Respondents
in all W.Ps'

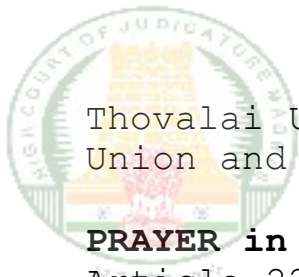
PRAYER in W.P. (MD) No. 2274 of 2022: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to impugned Clause 4 (1) (அ), (ஆ), (ஏ) and Clause 4 (III) (ix) and Clause 4 (III) (x) insofar as insisting condition with regard to spouse should work above 30 km distance alone of G.O.(ID)No.134, School Education (Pa.Ka.5)(1) Department dated 18.08.2021 of the first respondent herein, the impugned seniority list dated 18.10.2021 of the third respondent and the consequential impugned sanctioned vacancy list published in online on 20.10.2021 of the third respondent herein and the impugned order in Na.Ka.No.41779/C4/E1/2021 dated 20.10.2021 of the third respondent herein and impugned relieving order in Na.Ka.No.906/A3/2021 dated 20.10.2021 of the fourth respondent herein and quash the same and



consequently direct the respondents herein to conduct fresh counselling for the BRTEs by implementing the order dated 24.11.2021 in W.P. (MD) No. 16884 of 2021 this Hon'ble Court or to accommodate the petitioner in any one of the vacancies in Thovalai Union, Kurunthancode Union, Thuckalay Union, Killiyoor Union and Munchirai Union in Kanyakumari District.

PRAYER in W.P. (MD) No. 2275 of 2022: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to impugned Clause 4 (1) (ஆ), (ஊ), (ஏ) and Clause 4 (III) (ix) of G.O.(ID)No.134, School Education (Pa.Ka.5)(1) Department dated 18.08.2021 of the first respondent herein, the impugned seniority list dated 18.10.2021 of the third respondent and the consequential impugned sanctioned vacancy list published in online on 20.10.2021 of the third respondent herein and the impugned order in Na.Ka.No.41779/C4/E1/2021 dated 20.10.2021 of the third respondent herein and impugned relieving order in Na.Ka.No.906/A3/2021 dated 20.10.2021 of the fourth respondent herein and quash the same and consequently direct the respondents herein to conduct fresh counselling for the BRTEs by implementing the order dated 24.11.2021 in W.P. (MD) No. 16884 of 2021 this Hon'ble Court or to accommodate the petitioner in any one of the vacancies in Thovalai Union, Kurunthancode Union, Thuckalay Union, Killiyoor Union and Rajakkamangalam, Thiruvattar Union and Munchirai Union in Kanyakumari District.

PRAYER in W.P. (MD) No. 2276 of 2022: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to impugned Clause 4 (1) (ஆ), (ஊ), (ஏ) and Clause 4 (III) (ix) and Clause 4 (III) (x) insofar as insisting condition with regard to spouse should work above 30 km distance alone of G.O.(ID)No.134, School Education (Pa.Ka.5)(1) Department dated 18.08.2021 of the first respondent herein, the impugned seniority list dated 18.10.2021 of the third respondent and the consequential impugned sanctioned vacancy list published in online on 20.10.2021 of the third respondent herein and the impugned order in Na.Ka.No.41779/C4/E1/2021 dated 20.10.2021 of the third respondent herein and impugned relieving order in Na.Ka.No.906/A3/2021 dated 20.10.2021 of the fourth respondent herein and quash the same and consequently direct the respondents herein to conduct fresh counselling for the BRTEs by implementing the order dated 24.11.2021 in W.P. (MD) No. 16884 of 2021 this Hon'ble Court or to accommodate the petitioner in any one of the vacancies in



Thovalai Union, Kurunthancode Union, Thuckalay Union, Killlioor Union and Munchirai Union in Kanyakumari District.

PRAYER in W.P. (MD) No. 2277 of 2022: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to impugned Clause 4 (1) (ஆ), (ஊ), (ஏ) and Clause 4 (III) (ix) of G.O.(ID)No.134, School Education (Pa.Ka.5)(1) Department dated 18.08.2021 of the first respondent herein, the impugned seniority list dated 18.10.2021 of the third respondent and the consequential impugned sanctioned vacancy list published in online on 20.10.2021 of the third respondent herein and the impugned order in Na.Ka.No.41779/C4/E1/2021 dated 20.10.2021 of the third respondent herein and impugned relieving order in Na.Ka.No.906/A3/2021 dated 20.10.2021 of the fourth respondent herein and quash the same and consequently direct the respondents herein to conduct fresh counselling for the BRTes by implementing the order dated 24.11.2021 in W.P. (MD) No. 16884 of 2021 this Hon'ble Court or to accommodate the petitioner in any one of the vacancies in Thovalai Union, Kurunthancode Union, Thuckalay Union, Killlioor Union and Munchirai Union in Kanyakumari District.

PRAYER in W.P. (MD) No. 2278 of 2022: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to impugned Clause 4 (1) (ஆ), (ஊ), (ஏ) and Clause 4 (III) (ix) and Clause 4 (III) (x) insofar as insisting condition with regard to spouse should work above 30 km distance alone of G.O.(ID)No.134, School Education (Pa.Ka.5)(1) Department dated 18.08.2021 of the first respondent herein, the impugned seniority list dated 18.10.2021 of the third respondent and the consequential impugned sanctioned vacancy list published in online on 20.10.2021 of the third respondent herein and the impugned order in Na.Ka.No.41779/C4/E1/2021 dated 20.10.2021 of the third respondent herein and impugned relieving order in Na.Ka.No.906/A3/2021 dated 20.10.2021 of the fourth respondent herein and quash the same and consequently direct the respondents herein to conduct fresh counselling for the BRTes by implementing the order dated 24.11.2021 in W.P. (MD) No. 16884 of 2021 this Hon'ble Court or to accommodate the petitioner in any one of the vacancies in Kanyakumari DPO, Kanyakumari District.



For Petitioners
in all W.Ps'

: Mr.T.Pon Ramkumar

For Respondents : Mr.P.T.Thiraviam

in all W.Ps'

Government Advocate

WEB COPY

COMMON ORDER

These Writ Petitions are filed by the petitioners / Block Resource Teacher Educators (BRTes), mainly challenging Clause 4 (1) (அ), (ஆ), (ஏ) and clause 4 (III) (ix) and Clause 4 (III) (x) of G.O.(1D) No.134, School Education (Pa.Ka.5), (1) Department, dated 18.08.2021.

2. When these Writ Petitions are taken up for hearing, the learned counsel appearing for the petitioners submits that these Writ Petitions may be disposed of as per the order passed by this Court in a batch of Writ Petitions in W.P. (MD) No. 16884 of 2021 etc., dated 24.11.2021, wherein, this Court, quashed Clause 4 (1) (ஏ) and Clause 4 (III) (ix) of the impugned Government Order in G.O.(1D) No.134, School Education (Pa.Ka.5)(1) Department, dated 18.08.2021 and directed the respondents to pass appropriate posting orders. He further submits that as against the order passed by this Court, the Government has not preferred any appeal so far. Therefore, the above said order is applicable to these cases also.

3. Mr.P.T.Thiraviam, learned Government Advocate appearing for the respondents submits that in the event of conducting fresh counselling, pursuant to the earlier order passed by this Court in a batch of Writ Petitions in W.P. (MD) Nos. 16884 of 2021 etc., dated 24.11.2021, no further order is required in these Writ Petitions. The learned Government Advocate has also confirmed that the appeal is not yet filed as against the order of this Court in W.P. (MD) No. 16884 of 2021 etc., this Court has already quashed the priority which was provided to BRTes.

4. The relevant portion of the aforesaid order is extracted hereunder:

"34.In case of surplus Teachers among the BT Assistants, the respondents are following the principle of 'last come first go'. There is a Government Order in G.O.(1D)No.217, School Education Department, dated 20.06.2019, to the effect that on deployment due to surplus, the



seniority. This is what happened in the present case. During the year 2014-15, the Department has identified 395 BRTEs as surplus in certain Districts and deployed the junior-most BRTEs to other Districts. Of this 395 BRTEs, 362 BRTEs are in service and by the impugned Government Order, they are now sought to be given preference. If the Department intends to give some concession to these 362 BRTEs, they can accommodate them as BT Assistants, like that of the 500 senior-most BRTEs who are now transferred as BT Assistants as per Clause 4(1)(m) of the impugned Government Order, since as per the adhoc rules framed vide G.O.(Ms)No.52, School Education (C2) Department, dated 30.03.2006, the posts of BRTE and BT Assistant are inter-changeable. Instead, they are cited as a priority category, which is clearly a discrimination among the BRTEs and this classification based on service condition is not a reasonable one. Therefore, this Court is inclined to quash the impugned Government Order insofar as Clause 4(1)(V) and Clause 4(III)(ix) is concerned, inasmuch as giving priority to a set of BRTEs.

35. Accordingly, Clause 4(1)(V) and Clause 4(III)(ix) of the impugned Government Order in G.O.(1D)No.134, School Education (Pa.Ka.5)(1) Department, dated 18.08.2021, inasmuch as giving priority to a set of BRTEs, are quashed.

36. It appears that this Court, while entertaining the writ petitions on 08.10.2021, has passed the following interim order:-

"14. ...

(i) The writ petitioners shall participate in the ensuing general transfer counselling for this academic year and without prejudice to their rights, they can exercise their option for the transferring place.

(ii) If any of the deployed BRT Educators opts for the same place, under Clause 4(1)(V) and (III)(ix) of the said Government Order, the posting orders shall be kept in abeyance insofar as the particular place is concerned (emphasis supplied). ..."

Since this Court has now quashed Clause 4(1)(V) and Clause 4(III)(ix) of the impugned Government

<https://hcservices.ecourts.gov.in> in G.O.(1D)No.134, School Education



(Pa.Ka.5) (1) Department, dated 18.08.2021, the respondents shall pass appropriate posting orders.

In the result, these writ petitions stand partly allowed. There shall be no order as to costs. Consequently, all the connected miscellaneous petitions shall stand closed."

5. In view of the submissions made by either side counsel and also considering the fact that similar issue has already been settled by this Court in a batch of Writ Petitions, the respondents in all fairness have to conduct a fresh counselling, by re-arranging the seniority. Accordingly, these Writ Petitions are disposed of in the admission stage itself. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Government of Tamil Nadu,
Represented by its Principal Secretary
to Government (School Education),
Fort St.George,
Chennai - 600 009.
2. The Commissioner of School Education,
DPI Campus,
College Road,
Nungampakkam,
Chennai - 600 006.



3. The Joint Director (Personal),
Department of School Education,
DPI Campus, College Road,
Nungampakkam,
Chennai - 600 006.

4. The Additional Chief Educational Officer,
Kanyakumari,
Kanyakumari District.

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

+5 CC to M/s.T.PON RAMKUMAR, Advocate (SR-4252[F] dated
04/02/2022)

+1 CC to M/s.SPL.GP (SR-4538[F] dated 07/02/2022)

**W.P (MD) Nos. 2274 to 2278 of 2022 and
W.M.P. (MD) Nos. 1979, 1980, 1983, 1985,
1986, 1987, 1989, 1990, 1993 and 1994 of 2022
04.02.2022**

KG (CO)

TR(23.03.2022) 8P 12C