



W.A.(MD).Nos.744 of 2019 and 1262 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.12.2023

CORAM

**THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD).Nos.744 of 2019 and 1262 of 2023
and

C.M.P.(MD).Nos.6483, 7723 of 2019 and 9464 of 2023

W.A.(MD).No.744 of 2019

S.Amal Raj,
Headmaster,
St.Francis Xavier R.C. Middle School,
Aavichipatty,
Natham Taluk,
Dindigul District.

.. Appellant/5th Respondent

Vs.

1.S.Rosali

.. 1st Respondent/ Petitioner

2.The Joint Director of Elementary Education,
Chennai.

3.The District Elementary Educational Officer,
Dindigul District.
Now Re-designated as
The District Educational Officer,
O/o.The District Educational Office,
Dindigul District.



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4.The Assistant Elementary Educational Officer,
Natham,
Dindigul District.
Now Re-designated as
The Block Educational Officer - 1,
O/o. the Block Educational Office,
Natham, Dindigul District.

5.The Correspondent,
St.Francis Xavier R.C. Middle School,
Aavichipatty,
Natham Taluk,
Dindigul District.

.. Respondents No.2 to 5/
Respondents No.1 to 4

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 04.06.2019 passed by the learned Judge in W.P. (MD).No.13848 of 2010 and allow the Writ Appeal with costs.

For Appellant	: Mr.V.Panneer Selvam assisted by Mr.S.Mohamed Suhail for M/s.N.Sumitha
For R-1	: Mr.T.Aswin Rajasimman
For R-2 to R-4	: Mr.D.Sadiq Raja Additional Government Pleader
For R-5	: Mr.M.Arjun Varman

W.A.(MD).No.1262 of 2023

1.The Joint Director of Elementary Education,
Chennai.



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2.The District Elementary Education Officer,
Dindigul District.

3.The Assistant Elementary Education Officer,
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Dindigul District.

.. Appellants/Respondents 1 to 3

Vs.

1.S.Rosali

.. 1st Respondent/Writ Petitioner

2.The Correspondent,
St.Francis Xavier R.C. Middle School,
Aavichipatty,
Natham Taluk,
Dindigul District.

3.S.Amalraj,
Headmaster,
St.Francis Xavier R.C. Middle School,
Aavichipatty,
Natham Taluk,
Dindigul District.

.. 2nd & 3rd Respondents/
4th & 5th Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order passed in W.P.(MD).No.13848 of 2010 dated 04.06.2019 and allow the Writ Appeal.

For Appellants : Mr.D.Sadiq Raja
Additional Government Pleader
For R-1 : Mr.T.Aswin Rajasimman



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For R-2 : Mr.G.Prabhu Rajadurai
For R-3 : Mr.S.Mohamed Suhail
for M/s.Ajmal Associates

COMMON JUDGMENT

(Judgment of the Court was delivered by S.M.SUBRAMANIAM,J.)

The order dated 04.06.2019 passed in W.P.(MD).No.13848 of 2010 is under challenge before us.

2. The first respondent/writ petitioner instituted a Writ proceedings challenging the order dated 25.10.2010, cancelling the promotion granted to the first respondent to the post of Headmistress, Elementary School and for a direction to retain her in the post of Headmistress in the fifth respondent minority aided school.

3. The first respondent/writ petitioner was appointed on 04.06.1990 as Secondary Grade Teacher in the R.C. Diocese of Madurai. She was transferred to Theni as Second Grade Teacher and further, transferred to the



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fifth respondent School on 18.11.1996. Selection Grade was awarded to the first respondent on 20.09.2000. She was promoted to the post of Headmistress, Middle School on 07.07.2010. The Management of the fifth respondent School submitted a proposal seeking approval of appointment of the first respondent as Middle School Headmistress. Since approval was rejected, the promotion granted by the School Management was cancelled. Thus, the first respondent was constrained to move the Writ Petition.

4. The learned Single Judge allowed the Writ Petition by setting aside the order of cancellation. Since the Writ Petition was allowed, the fifth respondent, who was holding the post of Headmaster, filed the Writ Appeal in W.A.(MD).No.744 of 2019 and the other Writ Appeal in W.A.(MD).No. 1262 of 2023 was filed by the Education Department.

5. The learned counsel appearing on behalf of the first respondent, Smt.S.Rosali, mainly contended that the first respondent/writ petitioner is fully qualified to hold the post of Secondary Grade Teacher and she was appointed to the said post. She possessed the Secondary Grade Teacher's



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Certificate in Kindergarten Training School Leaving Certificate examination and the said qualification is prescribed as an acceptable qualification for appointment to the post of Secondary Grade Teacher. Thus, there is no infirmity in respect of promotion granted to the first respondent/writ petitioner by the School and consequently, the cancellation of promotion is unsustainable and in violation of the Rules in force.

6. The learned counsel appearing for the writ appellant, Mr.S.Amalraj, mainly contended that the writ petitioner is not qualified for promotion to the post of Middle School Headmistress. She did not possess the requisite qualification of T.S.L.C. or qualification as contemplated under the Rules. The Kindergarten Training School Leaving Certificate examination cannot be treated as equivalent to the T.S.L.C. qualification even as per the Rules, which was clarified by the Government in G.O. (Ms)No.172, School Education Department, dated 31.10.2002. Therefore, the learned Single Judge has erred in allowing the Writ Petition.



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7. The learned Additional Government Pleader appearing for the State reiterated that the Rules are unambiguous and the Rules contemplate that the candidate seeking promotion to the post of Headmaster must possess the qualification of S.S.L.C. pass and T.S.L.C. of Secondary Grade or its equivalent. Admittedly, the first respondent, Smt.S.Rosali, is possessing Kindergarten examination certificate issued by Secondary Grade and such a certificate cannot be treated as equivalent to T.S.L.C. certificate as per the clarification issued by the Government in G.O.(Ms).No.172. Thus, the Writ Appeal filed by the State is also to be allowed.

8. We have considered the arguments of the respective parties to the *lis* on hand. Going through the Rules, we have to consider the scope of the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules 1977. Qualifications for appointment as teachers in minority Schools (Regular) are contemplated in Annexure – III. Clause 3 speaks about Secondary Grade Teacher. The qualifications contemplated are

(i) S.S.L.C.

(ii) T.S.L.C of Secondary Grade or its equivalent ***provided that*** the



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teachers who have passed the Nursery, Montessori and Kindergarten School Leaving Certificate Examination of Secondary Grade shall be employed to handle standards I to II *only*.

9. Clause 1-A denotes Headmaster (Elementary and Middle Schools).

The qualifications stated are

(i) S.S.L.C.

(ii) T.S.L.C. of Secondary Grade or its equivalent; and

(3) should have worked as Teacher in recognised schools for a period of not less than five years after obtaining the T.S.L.C. of Secondary Grade or its equivalent.

10. Let us now examine whether a Secondary Grade Teacher under Clause 3 is eligible for promotion to the post of Headmaster (Elementary and Middle Schools) under Clause 1-A.

11. Understanding of Clause 3 in Annexure-III of the Rules, the Rule makers intended to constitute two categories of Secondary Grade Teachers



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under the cadre of Secondary Grade Teacher.

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(I) The first category of Secondary Grade Teachers would be possessing the qualification of

(i) S.S.L.C,

(ii) T.S.L.C of Secondary Grade or its equivalent.

(II) Another category of Secondary Grade Teachers would be possessing the qualification of S.S.L.C and pass in Nursery, Montessori and Kindergarten School Leaving Certificate Examination of Secondary Grade.

Though the said two categories of persons were appointed under the common cadre of Secondary Grade Teacher, each category possess distinct and separate qualification even as per the Rules. It is unambiguously made clear in the Rules since the second category of Secondary Grade Teachers were appointed under the proviso clause, more specifically to handle standards I and II only. Therefore, the second category of Secondary Grade Teacher appointed under the proviso clause is not eligible to take classes for standards III to V. Thus, the Rule constituted two categories of Secondary Grade Teachers, one category can take classes upto V standard and another



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category can take classes upto II standard. Therefore, a distinction has been made between the Secondary Grade Teachers under Clause 3 in Annexure – III of the Rules.

12. Clause 1-A provides qualification for Headmaster (Elementary and Middle Schools). Under the said clause, the qualification is

(i) S.S.L.C.

(ii) T.S.L.C. of Secondary Grade or its equivalent; and

(3) should have worked as Teacher in recognised schools for a period of not less than five years after obtaining T.S.L.C of Secondary Grade or its equivalent.

Therefore, the qualifications contemplated under the proviso to Clause 3 is absent under Clause 1-A, the qualification prescribed for Headmaster. More so, Clause 1-A (3) also indicates that the experience of not less than five years must be after obtaining the T.S.L.C. of Secondary Grade or its equivalent. Therefore, a Teacher, who was appointed with the qualification of S.S.L.C and T.S.L.C of Secondary Grade or its equivalent, possessing the experience of five years alone, is eligible for promotion to the post of



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Headmaster (Elementary and Middle School). A Secondary Grade Teacher appointed under the second category of pass in Nursery, Montessori and Kindergarten School Leaving Certificate Examination of Secondary Grade is not eligible for promotion to the post of Headmaster (Elementary and Middle School).

13. However, the Government issued an order in G.O.(Ms)No.172, School Education Department, dated 31.10.2002, providing an opportunity to the second category of Secondary Grade Teachers, who were appointed to take classes upto II standard. As per the said Government Order, a Secondary Grade Teacher appointed under the second category to handle standards I and II, on acquiring the qualification of T.S.L.C. or its equivalent, shall be eligible for promotion to the post of Headmaster (Elementary and Middle School). G.O.(Ms).No.172 is a clarification issued with reference to the Rules stated above and therefore, the teachers appointed without T.S.L.C or its equivalent qualification are not eligible for promotion to the post of Headmaster. But if they possess the qualification of T.S.L.C or its equivalent, then they become eligible for promotion to the



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post of Headmaster (Elementary and Middle School). Otherwise, those Secondary Grade Teachers will be eligible for selection grade and special grade pay as per the Government Orders and Pay Rules in force.

14. In the present case, admittedly, the first respondent, Smt.S.Rosali has not acquired the requisite qualification of T.S.L.C or its equivalent. The said qualification cannot be substituted by any other educational qualification and therefore, she is not eligible for promotion to the post of Headmistress (Elementary and Middle School). The learned Single Judge has not considered the scope of the Rules, but only considered the clarificatory order issued by the Government in G.O.(Ms)No.172. In the event of possessing the requisite qualification as contemplated under the Rules, which is interpreted by us in the aforementioned paragraphs, the candidates are to be considered for promotion to the post of Headmaster including the first respondent/writ petitioner.

15. In view of the above facts and circumstances, the order impugned dated 04.06.2019 passed in W.P.(MD).No.13848 of 2010 is set aside and the



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Writ Appeals are allowed. There shall be no order as to costs.

Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (V.L.N.,J.)
19.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

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S.M.SUBRAMANIAM,J.
and
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