



W.A. Nos.1296 to 1308 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2024

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A. Nos.1296 to 1308 of 2024 (13 cases)
C.M.P. Nos.9478, 9481, 9482, 9484, 9485, 9486, 9488, 9489, 9490, 9492,
9494, 9495 and 9498 of 2024

I. Brindha	Appellant in W.A. No.1296 of 2024
E. Bharathi	Appellant in W.A. No.1297 of 2024
C. Vijayakumari	Appellant in W.A. No.1298 of 2024
A.S. Ajitha Kala	Appellant in W.A. No.1299 of 2024
T.S. Shaji	Appellant in W.A. No.1300 of 2024
M. Mary Helen Rose	Appellant in W.A. No.1301 of 2024
1 S. Nightingale Mary	
2 S. Pushpa Latha	Appellants in W.A. No.1302 of 2024
K. Ravi Kumar	Appellant in W.A. No.1303 of 2024
A. Jenitus Suniga Rose	Appellant in W.A. No.1304 of 2024
R.V. John Kingslin Joseraj	Appellant in W.A. No.1305 of 2024
V. Rajalekshmi	Appellant in W.A. No.1306 of 2024
C.L. Jasmine Sheeba	Appellant in W.A. No.1307 of 2024
N. Jayakumari	Appellant in W.A. No.1308 of 2024

v

- 1 The State of Tamil Nadu
represented by its Principal Secretary to Government
School Education Department
Secretariat
Chennai 600 009
- 2 The Commissioner of School Education
O/o the Commissioner of School Educational Office
DPI Compound
Chennai



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- 3 The Director of School Education
O/o the Director of School Educational Office
DPI Compound
Chennai
- 4 The State Project Director
Samagra Shiksha
(Integrated School Education)
State Project Directorate
DPI Campus, Chennai 600 006
- 5 The Joint Director
School Education (Personnel)
O/o the Joint Directorate School
Educational Office
Chennai 600 006 RR 1 to 5 in all writ appeals
- 6 The Chief Educational Officer
O/o the Chief Educational Office
Kanyakumari
Kanyakumari District R6 in all writ appeals except
W.A. No.1302 of 2024
- 6 The Chief Educational Officer
O/o the Chief Educational Office
Tirunelveli
Tirunelveli District R6 in W.A. No.1302 of 2024

Writ Appeals filed under Clause 15 of the Letters Patent challenging the common order dated 28.02.2024 passed in W.P. Nos.33613, 33610, 33607, 33595, 33603, 33605, 33612, 33601, 33604, 33611, 33602, 33608 and 33609 of 2023, respectively.



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For appellants in Mr. Ajmal Khan, Sr. Counsel
all writ appeals for M/s. Ajmal Associates

For respondents in Mr. J.C. Durai Raj
all writ appeals Additional Government Pleader

COMMON JUDGMENT

(delivered by R. MAHADEVAN, J.)

These writ appeals are focussed against the common order dated 28.02.2024 passed in W.P. Nos.33613, 33610, 33607, 33595, 33603, 33605, 33612, 33601, 33604, 33611, 33602, 33608 and 33609 of 2023, respectively, which were filed challenging the orders relieving the appellants from the post of Block Resource Teacher Educator (for short “BRTE”) and the consequential orders posting them as B.T. Assistants.

2 Since all these writ appeals emanate from a common order, they are considered and decided by this common judgment.

3 A broad outline of the facts leading to the filing of the instant writ appeals is as below:

3.1 The appellants were initially appointed as BRTEs through the Teachers Recruitment Board. The said scheme was created under the Sarva Shiksha Abhiyan Scheme and the recruitment of BRTEs for the year 2002-2003



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was approved by the Government *vide* G.O.Ms.No.16, School Education (Q2)

Department dated 05.02.2002. Pursuant thereto, *vide* G.O.Ms.No.94, School Education Department dated 01.07.2002, 6,285 posts of BRTE were sanctioned. Further, *vide* G.O.Ms.No.52, School Education (C2) Department dated 30.03.2006, the General and Special Rules applicable to the post of B.T. Assistants were also made applicable to the post of BRTE.

3.2 While so, *vide* G.O. (1D) No.134, School Education [Pa.Ka.5(1)] Department dated 18.08.2021, the first respondent framed guidelines for the purpose of transfer counselling and ordered, *inter alia*, that by treating all the posts of BRTE as vacant, on the basis of seniority, 500 BRTEs should be transferred every year from the said post and posted as B.T. Assistants, from the academic year 2021-2022, even in the event of they being unwilling.

3.3 It is pertinent to point out that while clause 4(1) (2) of the aforesaid Government Order refers to the decision taken to treat all the posts of BRTE as vacant, by clause 4(1)(A), *ibid.*, seniormost BRTEs were ordered to be transferred and posted as B.T. Assistants, even in the event of they being unwilling.



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3.4 Challenging the aforesaid two clauses in the G.O. (1D) No.134, *supra*, writ petitions came to be filed in W.P. (MD) Nos.16310 of 2021, *etc.* batch, which were dismissed *vide* order dated 24.11.2021.

3.5 Further, yet another batch of writ petitions in W.P. (MD) Nos.16884 of 2021, *etc.* came to be filed challenging clause 4(1)(2) of G.O.(1D) No.134, *supra*, which was already put to challenge in the earlier round of writ petitions and also clause 4(1)(7), *ibid.*, as per which, priority has to be given to 362 BRTes who were deployed in the year 2014-2015. The said batch of writ petitions was partly allowed *vide* order dated 24.11.2021 by quashing clause 4(1)(7), *ibid.* and clause 4(III)(ix), *ibid.*

3.6 Thereagainst, some of the aforesaid unsuccessful writ petitioners preferred W.A. (MD) Nos.2230 to 2242 of 2021 which were dismissed *vide* order dated 07.11.2023, holding, *inter alia*, that post can never be the choice of the employees and that they are expected to serve wherever they are posted.



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3.7 The aforesaid judgment of the Coordinate Bench at Madurai has also been upheld by the Supreme Court in S.L.P. Nos.27383 and 27384 of 2023 *vide* order dated 05.01.2024.

3.8 This being the factual background, the appellants herein had filed the instant writ petitions challenging their being relieved as BRTEs and being posted as B.T. Assistants, after their representation to the authorities in this regard did not bear fruition.

3.9 The learned Judge, considering the factual matrix of the case as narrated above, more so, the fact that the issue has traversed upto the Supreme Court and has attained finality, dismissed the writ petitions filed by the appellants herein, *vide* common order dated 28.02.2024. However, while dismissing the writ petitions, the learned Judge was gracious enough in giving permission to the appellants to continue in their respective posts till 30.04.2024 and thereafter, join in the transferred place on or before 07.06.2024.

3.10 Thereagainst, the instant writ appeals have been filed.



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4 The learned Senior Counsel appearing for the appellants, *inter*

alia, submitted that from the year 2006 onwards and at least, upto 2012, only if the BRTes were willing, they were posted as B.T. Assistants, whereas, in deviation of the said procedure, G.O. (1D) No.134, *supra*, has been issued to the effect that the seniormost BRTes should be posted as B.T. Assistants, even if they are unwilling, which is not correct, for two reasons, *viz.*, (1) when junior BRTes are very much available, senior BRTes should not be disturbed and (2) transferring the seniormost BRTes who have acquired vast experience is not in the interest of the students; these aspects had not been considered in the impugned order.

5 *Per contra*, the learned Additional Government Pleader advanced his arguments by reiterating the stance taken by the respondents in the counter affidavit and the so-called report filed by the Director of School Education.

6 Heard the learned counsel for the parties and perused the materials available on record, more so, the grounds urged in these writ appeals.

7 The appreciation of the facts obtaining in the case on hand would clinchingly show that the matter has been taken to the Supreme Court, however,



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unsuccessfully, and this factum had weighed in the mind of the learned Judge

while dismissing the writ petitions. Further, nowhere in the grounds of appeal, has it been stated that the issue has not attained finality. Once the issue has attained finality in the case filed by similarly placed persons, the appellants, for their part, once again, cannot reopen the issue. The attitude of the appellants in litigating after the issue had attained finality shows that they had taken recourse to filing of writ petitions only to avoid joining at the transferred place and such attitude of the appellants is deprecatory. Further, at the cost of repetition, the learned Judge has given leeway to the appellants to join the transferred post on or before 07.06.2024.

8 In such perspective of the matter, we find no ground to interfere with the order of the learned Judge.

In the upshot, these writ appeals stand dismissed, however, sans costs. Connected C.M.Ps. stand closed.

cad

[R.M.D, J.] [M.S.Q, J.]
30.04.2024



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To

- 1 The Principal Secretary to Government
School Education Department
State of Tamil Nadu
Secretariat
Chennai 600 009
- 2 The Commissioner of School Education
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Kanyakumari
Kanyakumari District
- 7 The Chief Educational Officer
O/o the Chief Educational Office
Tirunelveli, Tirunelveli District



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R. MAHADEVAN, J.
and
MOHAMMED SHAFFIQ, J.

cad

Common judgment in
W.A. Nos.1296 to 1308 of 2024 (13 cases)

30.04.2024