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W.A.Nos.2575, 2576 & 2587 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.Nos.2575, 2576 & 2587 of 2021

and

C.M.P.Nos.16799, 16800, 16802, 16866 & 16868 of 2021

W.A.No.2575 of 2021:

1.The Chief Educational Officer,
Nagapattinam Educational District,
Nagapattinam.

2.The District Educational Officer,
Sirkazhi Educational District,
Sirkazhi – 609 110.
Nagapattinam District.

... Appellants

Vs.

1.S.Ebinezar

2.The Correspondent,
L.M.C. Higher Secondary School,
Pidari West Street,
Sirkazhi – 609 110.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to allow the writ



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appeal and set aside the order dated 16.02.2021 made in W.P.No.3139 of 2021.

W.A.No.2576 of 2021:

1.The Chief Educational Officer,
Nagapattinam Educational District,
Nagapattinam.

2.The District Educational Officer,
Sirkazhi Educational District,
Sirkazhi – 609 110.
Nagapattinam District.

... Appellants

Vs.

1.S.George Prem

2.The Correspondent,
L.M.C. Higher Secondary School,
Pidari West Street,
Sirkazhi – 609 110.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to allow the writ appeal and set aside the order dated 16.02.2021 made in W.P.No.3149 of 2021.

W.A.No.2587 of 2021:

1.The Chief Educational Officer,
Nagapattinam Educational District,
Nagapattinam.

2.The District Educational Officer,



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Sirkazhi Educational District,
Sirkazhi – 609 110.
Nagapattinam District.

... Appellants

Vs.

1.T.Gabriel Sathiyaseelan

2.The Correspondent,
L.M.C. Higher Secondary School,
Pidari West Street,
Sirkazhi – 609 110.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to allow the writ appeal and set aside the order dated 16.02.2021 made in W.P.No.3144 of 2021.

For Appellants	: Mr.U.M.Ravichandran Special Government Pleader (in all WAs)
For R1	: Mr.S.Nedunchezhiyan (in all WAs)
For R2	: Not Ready in Notice (in all WAs)



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COMMON JUDGMENT

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[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The Government issued G.O.Ms.No.238, School Education (SE6(1)) Department dated 13.11.2018 issuing guidelines to fill-up the Non-Teaching post in Government aided schools.

2. It is not in dispute that the guidelines issued are in force. The 1st respondent in three writ appeals filed writ petitions to grant approval of promotion to the post of Junior Assistant, Record Clerk and Office Assistant respectively.

3. The Writ Court allowed the writ petitions directing the respondents therein to consider the case of the respondents herein without reference to G.O.Ms.No.238 dated 13.11.2018 and pass appropriate orders on merits in accordance with law within a period of three months from the date of receipt of a copy of the order after affording opportunity of hearing to the parties.

4. So long as the Government guidelines issued in G.O.Ms.No.238



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dated 13.11.2018 are in force. The authorities competent of the Education Department is bound by the said Government order and they have to consider the applications based on the guidelines issued by the Government. Directions issued to consider the case of the 1st respondent in all the three writ appeals without reference to the Government order would result in opening a pandora's box, since many such similarly placed employees will also claim such benefits of approval of promotion without reference to the Government guidelines. It is probable that few private managements may issue ante-dated promotion orders and it would cause financial loss to the State.

5. When such possibilities are there, the competent authorities have to apply the Government guidelines as on the date of receipt of the proposals for approving the appointments, promotions, etc. Once the Government order is issued, the guidelines are in force and the applications for the approval are to be considered with reference to the guidelines issued by the Government. That being the principles to be adopted, direction issued by the learned Single Judge to consider the case of the writ petitioner for approval of promotion without reference to G.O.Ms.No.238 dated 13.11.2018 would not arise at all.



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The case of the petitioners is to be considered only with reference to the Government order, which all are applicable as on the date when the proposals are submitted to the competent authorities of the Education Department.

6. The learned Special Government Pleader based on the written instruction made a submission that the 1st respondent in W.A.No.2575 of 2021 Mr.S.Ebinezar retired from service on 31.05.2022 and his retiral benefits are settled. The 1st respondent in W.A.No.2587 of 2021 Mr.Gabriel Sathiyaseelan is working as a Office Assistant and receiving the salary as applicable. The 1st respondent in W.A.No.2576 of 2021 Mr.S.George Prem remains unauthorisedly absent and not attending the work.

7. In any event, the case of the respondents for approval of promotion is to be granted strictly in accordance with the guidelines issued by the Government and by following the due process.

8. In view of the fact that the learned Single Judge directed the appellants herein to consider the representation without reference to the guidelines issued in the Government order, the same deserves to be



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interfered. Consequently the common order dated 16.02.2021 passed in W.P.Nos.3139, 3144 and 3149 of 2021 is set aside and the Writ Appeals are allowed. Connected Miscellaneous Petitions are closed. However, there shall be no order as to costs.

[S.M.S., J.] [C.K., J.]
06.06.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



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