



W.A.No.2600 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2024

CORAM :

THE HON'BLE MR. D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

and

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.2600 of 2024 and

CMP No.18625 of 2024

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai 600 009.
2. The Director of Elementary Education,
College Road, Chennai-6.
3. The District Educational Officer,
Office at the DEO, Room No.306,
Salem Urban, Salem Collectorate,
Salem District 636 001.
4. The Block Educational Officer,
Office of the BEO, Ayothiyapattinam,
Salem District, 636 103.

... Appellants

Vs.

The Headmistress and Correspondent,
St.Gabriel Aided Girls Primary School,
A.N.Mangalam, Karipatti, Ayothiyapattinam Union,
Salem District 636 106.

Respondent



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 08.01.204 made in W.P.No.18549 of 2022 and allow this writ appeal.

For Appellants : Mr. U.M.Ravichandran,
Special Government Pleader
For respondent : Mr.G.Mutharasu

JUDGMENT

(Order of the Court was made by the Hon'ble Acting Chief Justice)

The Government has filed the present writ appeal, assailing the order passed by the learned Single Judge in W.P.No.18549, dated 08.01.2024, in and by which, the appellant was directed to approve the proposal sent by the writ petitioner/ School for the appointment of Tmt.Jancy, as Secondary Grade Teacher in the School w.e.f. the date of her appointment i.e. 08.06.2017 forthwith with all attendant benefits, including arrears of salary and allowances.

2. The learned Special Government Pleader appearing for the appellants and the learned counsel appearing for the respondent agreed to



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pass order, in the light of the order passed by a Division Bench of this Court, in an identical issue in W.A.Nos.2319, 2268/2022 etc. batch, dated 08.07.2024. The learned Special Government Pleader has also produced the copy of the above order.

3. The order passed in the above said W.A.No.2319 of 2022 etc. batch, dated 08.07.2024 is reproduced as follows.

3.1. The Writ Petitioner was appointed on 11.06.2018 for the post of B.T. Assistant (Tamil) in the 4th respondent school and a proposal was sent to the 3rd respondent for necessary approval, which was rejected vide impugned order dated 25.06.2021, on the ground that the Writ Petition has not passed TET;

3.2. When the impugned order was put to challenge before the Writ Court, the same was quashed in terms of the judgment of Supreme Court, reported in 2016 (4) L.W. 841, which has been followed by this Court as well, with an observation that G.O.Ms.No.165, School Education [Tho.Ka.2(1)] Department dated 17.09.2019 was held to be inoperative by a Division Bench of this Court in a batch of cases in W.A.(MD) Nos.76 of 2019 etc., batch. Aggrieved by the same, the Appellants / Government are before this Court.



4. When these matters are taken up for hearing, learned Additional Government Pleader for the appellants fairly stated that proposals submitted by various Minority Institutions / Schools in respect of appointment of Teachers will be considered and appropriate orders will be passed thereon without reference to G.O.Ms.No.165, School Education [Tho.Ka.2(1)] Department dated 17.09.2019.

5. It is worthwhile to mention here that one of us (DKKJ), while hearing the similar issue singly in the case of ***Fahmidunnisa vs. The Director of Elementary Education, College Road, Chennai-6 [W.P.No.14240 of 2022]*** decided on 15.6.2022, discussed the scope of G.O.Ms.No.165, in consonance with the judgment of a Division Bench of this Court dated 18.04.2022 and held as follows:

“2. The prayer as sought for in the instant writ petition is squarely covered by the judgment of this Court ***dated 18.4.2022 in W.P.No.3194 of 2020, etc. Batch case [B.Kurinjimalaron vs. The State of Tamil Nadu rep. by its Secretary, Education Department, Fort St. George, Chennai-9]*** wherein this Court held as follows:

"9. On perusal of the judgment of the Division Bench of this Court in the aforesaid Batch of cases and also the G.O.Ms.No.165 issued by the School Education Department, dated 17.9.2019, both the judgment as well as G.O.Ms.No.165 are prospective in nature. The appointments made by the School Management in the instant writ petitions are prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and proposals for the said appointments were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019. Therefore, there is no



legal impediments for the respondents to accord approval to the appointment made by the School Management in the instant writ petitions.

10. Having regard to the rival submissions of the parties, taking note of the judgment passed by the Division Bench of this Court in a Batch of Writ Appeals in W.A.(MD) No.76 of 2019, etc., G.O.Ms.No.165 issued by the School Education department, dated 17.9.2019 will not prohibit the educational authorities to approve the appointments made by the School Management in the instant writ petitions since the proposals for approval of appointments made by the School Management were forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019. Therefore, this Court is of the view that the respondent department without considering the G.O.Ms.No.165 dated 17.9.2019 in proper perspective and passed the impugned order rejecting the proposals submitted by the School Management. Therefore, the impugned orders passed by the respondent department are liable to be quashed.

11. Accordingly, the impugned orders passed by the respondent department in the aforesaid writ petitions are quashed and remitted to the Chief Educational Officers/District Educational Officers concerned, to consider and pass an order of approval of the appointments made by the School management, provided the said proposals satisfies all the norms prescribed for such appointments and as per the Rules, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of the order. It is made clear that those who are appointed to the post of Secondary Grade Teacher/B.T. Assistant/Middle Grade Assistant prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and also, the proposals for approval of such appointments were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 alone are entitled to the relief granted hereinabove."

3. In the light of the judgment cited supra, the impugned order passed by the second respondent is quashed and remitted to the second respondent to consider and pass an order of approval of the appointment made by the fourth respondent School, in the light of the judgment cited supra, provided the



said proposal satisfies all the norms prescribed for such appointment and as per the Rules, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of the order.”

Thereafter, no appeal has been filed as against the said order dated 15.06.2022 and therefore, it attained finality.

6. However, in view of the fairness shown by the learned Additional Government Pleader for the appellants and in the light of the order dated 15.06.2022 passed in the Writ Petition (supra), all these Writ Appeals are disposed of, with a direction to the appellants herein to consider and pass an order of approval of the appointments made by the School Management, provided the said proposals satisfy the norms prescribed for such appointments and as per the Rules, as expeditiously as possible preferably within a period of twelve weeks from the date of receipt of a copy of this judgment, bearing in mind the afore-stated judgment. It is made clear that those who are appointed to the post of Secondary Grade Teacher/B.T. Assistant/Middle Grade Assistant prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and also, the proposals for approval of such appointments were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 alone are entitled to the relief granted. No costs. Consequently, connected Miscellaneous petitions are closed.



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7. Here in this case, the first respondent school management has appointed one Tmt.Jancy as Secondary Grade Teacher on 08.06.2017 and the proposal for approval of her appointment was forwarded to the appellants on 04.07.2017, viz, prior to the issuance of G.O.Ms.No.165, dated 17.09.2019. At this juncture, it is to be noted that, earlier, this Court, vide order made in W.P.No.5249/2021, dated 08.03.2021 has directed the appellants to consider the proposal for approval of appointment of said Tmt.Jancy and to pass order. The said proposal was rejected, against which, second writ petition bearing W.P.No.18604/2021 was filed and this court vide order dated 18.04.2022, has quashed the said rejection order and consequently directed the appellants to consider and pass an order of approval of the appointment of Tmt.Janchy. Again the appellants rejected the proposal by passing the impugned order.

8. As such, considering the facts and circumstances of the case and also in the light of the above judgment passed by a Division Bench of this Court, the appellants herein are directed to consider and pass an order of approval of the appointment made by the School Management, provided the



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said proposals satisfy the norms prescribed for such appointment and as per the Rules, as expeditiously as possible preferably within a period of twelve weeks from the date of receipt of a copy of this judgment, bearing in mind the afore-stated judgment.

9. With the above direction, this writ appeal is disposed of. There shall be no order as to costs. Connected CMP No.18625 of 2024 is closed.

(D.K.K., A.CJ.)

(P.B.B.J.)

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Internet: Yes/No
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THE HON'BLE ACTING CHIEF JUSTICE

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