



W.P.(MD).Nos.7197 and 7198 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).Nos.7197 and 7198 of 2024

and

W.M.P.(MD)Nos.6646, 6647, 6649 and 6652 of 2024

W.P.(MD)No.7197 of 2024:

S.Ananda Samuel Devairakkam

... Petitioner

Vs.

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

2.The District Educational Officer (Secondary),
Tirunelveli,
Tirunelveli District.

3.The Correspondent,
St.Johns Higher Secondary School,
Palayamkottai, Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Na.Ka.No.913/A3/2023 dated 18.03.2024 of the second respondent herein and quash the same and



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consequently direct the respondents 1 and 2 herein to approve the appointment of the petitioner as B.T.Assistant (Maths) w.e.f. 01.08.2019 with all other attendant benefits.

For Petitioner : Mr.T.Pon Ramkumar

For R-1 and R-2 : Mr.T.Amjadkhan
Government Advocate

W.P.(MD)No.7198 of 2024:

J.B.Selwyn Devakalanjiam

... Petitioner

Vs.

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

2.The District Educational Officer (Secondary),
Tirunelveli,
Tirunelveli District.

3.The Correspondent,
St.Johns Higher Secondary School,
Palayamkottai, Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Na.Ka.No.912/A3/2023 dated 18.03.2024 of the second respondent herein and quash the same and consequently direct the respondents 1 and 2 herein to approve the



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appointment of the petitioner as B.T.Assistant (History) w.e.f. 04.06.2018 with all other attendant benefits.

For Petitioner : Mr.T.Pon Ramkumar

For R-1 and R-2 : Mr.T.Amjadkhan
Government Advocate

COMMON ORDER

Heard Mr.T.Pon Ramkumar, learned counsel for the petitioner and Mr.T.Amjadkhan, learned Government Advocate for the respondents 1 and 2.

2. These Writ Petitions have been filed seeking to quash the orders of the second respondent dated 18.03.2024 and consequently direct the respondents 1 and 2 herein to approve the appointment of the petitioner viz., S.Ananda Samuel Devairakkam as B.T.Assistant (Maths) w.e.f. 01.08.2019 and J.B.Selwyn Devakalanjiam as B.T.Assistant (History) w.e.f. 04.06.2018, with all other attendant benefits.

3. The petitioners have been appointed as B.T.Assistant (Maths) and B.T.Assistant (History) respectively, in the third respondent School.



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When the proposal for approval of appointment of the petitioners was sent for approval to the second respondent, it was rejected stating that the petitioners have not passed the TET eligibility and stated that after deploying the surplus teachers, the petitioners appointment will be considered. It is a settled legal position that so far as the minority private schools are concerned, TET eligibility is not required.

4. The learned counsel for the petitioners submitted that in the third respondent School, there was no surplus and even if it is presumed that there is any surplus, the petitioner's appointment has been made prior to the issuance of G.O.Ms.No.165 dated 17.09.2019, which speaks about the surplus. Since the petitioner's appointment relates back to 04.06.2018 and 01.08.2019 respectively, there is no question of deploying the surplus, for according approval to the appointment of the petitioners.

5. It is further submitted that the Government Order in G.O.Ms.No.165 dated 17.09.2019 has been kept inoperative in ***W.A.(MD).No.76 of 2019 batch dated 31.03.2021*** in the case of



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The Secretary to Government Government of Tamil Nadu School

Education Department, Fort St. George, Chennai – 9 vs Iruthaya

Amali and the relevant portion of the order is extracted hereunder:

“95. In view of the aforesaid discussions, we are inclined to pass the following orders in this batch of cases :

....

(o) In view of the aforesaid, the G.O.Ms.No.165, School Education [Tho.Ka.2(1)] Department, dated 17.09.2019 is hereby declared to be inoperative.”

6. The appointment of the petitioners has been made prior to the order dated 31.03.2021 passed in W.A.(MD).No.76 of 2019 batch. Hence, the third respondent School can get the advantage of getting approval to the appointment of the petitioners as B.T.Assistant (Maths) and B.T.Assistant (History). Therefore, the respondents cannot decline the approval of the appointment due to the reasons of TET eligibility or the deployment of the alleged surplus.



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7. In view of the above stated reasons, these Writ Petitions are **allowed** and the impugned orders in Na.Ka.No.912/A3/2023 dated 18.03.2024 and Na.Ka.No.913/A3/2023 dated 18.03.2024 are set aside. The respondents 1 and 2 are directed to consider and pass orders, regarding approval of appointment of the petitioners as B.T.Assistant (Maths) and B.T.Assistant (History) with effect from 01.08.2019 and 04.06.2018 respectively, if the appointment is otherwise in order. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

20.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:
WEB COPY

- 1.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 2.The District Educational Officer (Secondary),
Tirunelveli,
Tirunelveli District.



WEB COPY



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R.N.MANJULA, J.

Nsr

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