



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023 &
W.M.P.(MD)Nos.11371, 11372, 11374 to 11385, 11389, 11390, 11403 &
11404 of 2023 and 7349 & 7350 of 2024

- 1.Dr.Christina Ruby Stella
- 2.Dr.S.Chitra
- 3.Dr.K.Kanimozhi
- 4.Dr.R.Kalaiyarasi
- 5.Dr.C.Kasthuri
- 6.Dr.R. Vijayalakshmi
- 7.Dr.G.Sathiya Prabha
- 8.Dr.P.Madhanraj
- 9.Dr.K.Muthulakshmi
- 10.Dr.S.Anthuvan Babu

... Petitioners

vs.

- 1.The Principal Secretary to Government,
Higher Education Department,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.
- 2.The Director,
The Director of Collegiate Education,
EVK Sampath Maaligai,
DPI Campus,
Nunkampakkam,
Chennai - 600 006.



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

WEB COPY

3. The Chairman,
Teachers Recruitment Board,
4th Floor EVK Sampath Maaligai,
DPI Campus,
Nunkampakkam,
Chennai - 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent pertaining to the impugned Notification in No.2/2024 dated 14.03.2024 and quash the same as illegal and arbitrary and consequently direct the respondents to award 15 weightage marks to the petitioners and Assistant Professors in Private Colleges (aided and self finance), Universities Constituent Colleges on par with Guest Lecturers working in Government Arts and Science Colleges within the time limit that may be stipulated by this Court.

For Petitioner : Mr.A.D.Ganeshamoorthi

For Respondents : Mr.M.Siddharthan,
Additional Government Pleader
for R1 and R2
Mr.V.R.Shanmuganathan for R3



WEB COPY



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

COMMON ORDER

Heard Mr.A.D.Ganeshamoorthi, learned counsel for the petitioners, Mr.M.Siddharthan, learned Additional Government Pleader for the respondents 1 and 2 and Mr.V.R.Shanmuganathan, learned counsel appearing for the third respondent.

W.P.(MD)No.8127 of 2024

2. W.P.(MD)No.8127 of 2024 has been filed by the petitioner to call for the records of the third respondent pertaining to the impugned Notification in No.2/2024 dated 14.03.2024 and quash the same as illegal and arbitrary and consequently direct the respondents to award 15 marks as weightage as for herself and other Assistant Professors in Private Colleges (aided and self finance), Universities Constituent Colleges on par with Guest Lecturers working in Government Arts and Science Colleges.

W.P.(MD)No.13486 of 2023

3. W.P.(MD)No.13486 of 2023 has been filed by the petitioner



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

to call for the records of the first respondent pertaining to the Government Orders in G.O.Ms.Nos.246, 247 and 248 dated 08.11.2022 and quash the same as illegal and arbitrary and consequently direct the respondents to complete the Certificate Verification and Interview pursuant to the third respondent Notification No.12/2019 dated 28.08.2019 and 04.10.2019 and complete the selection process.

W.P.(MD)No.13487 of 2023

4. W.P.(MD)No.13487 of 2023 has been filed by the petitioner to call for the records of the first respondent pertaining to the Government Orders in G.O.Ms.Nos.246, 247 and 248 dated 08.11.2022 and quash the same as illegal and arbitrary and consequently direct the respondents to complete the Certificate Verification and Interview pursuant to the third respondent Notification No.12/2019 dated 28.08.2019 and 04.10.2019 and complete the selection process.

W.P.(MD)No.13488 of 2023

5. W.P.(MD)No.13488 of 2023 has been filed by the petitioner



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

to call for the records of the first respondent pertaining to the Government Orders in G.O.Ms.Nos.246, 247 and 248 dated 08.11.2022 and quash the same as illegal and arbitrary and consequently direct the respondents to complete the Certificate Verification and Interview pursuant to the third respondent Notification No.12/2019 dated 28.08.2019 and 04.10.2019 and complete the selection process.

W.P.(MD)No.13489 of 2023

6. W.P.(MD)No.13489 of 2023 has been filed by the petitioner to call for the records of the first respondent pertaining to the Government Orders in G.O.Ms.Nos.246, 247 and 248 dated 08.11.2022 and quash the same as illegal and arbitrary and consequently direct the respondents to complete the Certificate Verification and Interview pursuant to the third respondent Notification No.12/2019 dated 28.08.2019 and 04.10.2019 and complete the selection process.

W.P.(MD)No.13490 of 2023

7. W.P.(MD)No.13490 of 2023 has been filed by the petitioner



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

to call for the records of the first respondent pertaining to the Government Orders in G.O.Ms.Nos.246, 247 and 248 dated 08.11.2022 and quash the same as illegal and arbitrary and consequently direct the respondents to complete the Certificate Verification and Interview pursuant to the third respondent Notification No.12/2019 dated 28.08.2019 and 04.10.2019 and complete the selection process.

W.P.(MD)No.13491 of 2023

8. W.P.(MD)No.13491 of 2023 has been filed by the petitioner to call for the records of the first respondent pertaining to the Government Orders in G.O.Ms.Nos.246, 247 and 248 dated 08.11.2022 and quash the same as illegal and arbitrary and consequently direct the respondents to complete the Certificate Verification and Interview pursuant to the third respondent Notification No.12/2019 dated 28.08.2019 and 04.10.2019 and complete the selection process.

W.P.(MD)No.13492 of 2023

9. W.P.(MD)No.13492 of 2023 has been filed by the petitioner



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

to call for the records of the first respondent pertaining to the Government Orders in G.O.Ms.Nos.246, 247 and 248 dated 08.11.2022 and quash the same as illegal and arbitrary and consequently direct the respondents to complete the Certificate Verification and Interview pursuant to the third respondent Notification No.12/2019 dated 28.08.2019 and 04.10.2019 and complete the selection process.

W.P.(MD)No.13493 of 2023

10. W.P.(MD)No.13493 of 2023 has been filed by the petitioner to call for the records of the first respondent pertaining to the Government Orders in G.O.Ms.Nos.246, 247 and 248 dated 08.11.2022 and quash the same as illegal and arbitrary and consequently direct the respondents to complete the Certificate Verification and Interview pursuant to the third respondent Notification No.12/2019 dated 28.08.2019 and 04.10.2019 and complete the selection process.

W.P.(MD)No.13494 of 2023

11. W.P.(MD)No.13494 of 2023 has been filed by the petitioner



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

to call for the records of the first respondent pertaining to the Government Orders in G.O.Ms.Nos.246, 247 and 248 dated 08.11.2022 and quash the same as illegal and arbitrary and consequently direct the respondents to complete the Certificate Verification and Interview pursuant to the third respondent Notification No.12/2019 dated 28.08.2019 and 04.10.2019 and complete the selection process.

12. The petitioners in all the writ petitions are working as Assistant Professors in Private Colleges. The third respondent had issued notification No.12/2019 dated 28.08.2019 and 04.10.2019 to fill up 2331 posts of Assistant Professors in Tamil Nadu Collegiate Educational Service for Government Arts and Science Colleges and Colleges of Education for the year 2018-19. In response to the above notification, the petitioners had submitted their applications. But, so far selection process has not been started.

13. Despite the above recruitment process is pending, another notification has been given in G.O.(Ms)No.248, Higher Education (F2)



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

Department dated 08.11.2022 calling upon applications to the posts of 4000 Assistant Professors in the Tamil Nadu Collegiate Educational Service by directing the Teachers Recruitment Board to cancel the earlier Notification No.12/2019 dated 28.08.2019 and 04.10.2019, which was issued earlier for direct recruitment of 2331 posts of Assistant Professors.

14. The grievance of the petitioners is that the respondents are indirectly trying to fill up all the 4000 posts by dispensing the existing method of awarding weightage marks and by introducing competitive written examination. In G.O.(Ms)No.247, Higher Education (F2) Department dated 08.11.2022, it is stated that qualified Guest Lecturers working in the Government Colleges shall take part in the open competitive written examination and those who clears the competitive written examination, shall be awarded a weightage of 2 marks for each academic year of teaching experience (i.e., 11 months) subject to a maximum of 15 marks for the years of service rendered by them in Government Colleges, as an onetime measure.



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

WEB COPY

15. The petitioners who work as Assistant Professors in Private Colleges raise a grievance that they would be put disadvantage if competitive written examination is conducted by including those posts notified in the earlier Notification No.12/2019 dated 28.08.2019 and 04.10.2019. Their further grievance is that the weightage marks awarded for those candidates working as Guest Lecturers in the Government Colleges is discriminatory. Thus, the petitioners have filed the batch of writ petitions for challenging all the three Government Orders in G.O. (Ms)Nos.246, 247, 248, Higher Education (F2) Department dated 08.11.2022 either directly or indirectly.

16. It is to be clarified that a Government Order has issued in G.O.Ms.56, Higher Education (F2) Department dated 21.03.2020 calling for applications for 7198 posts of Assistant Professors. However, subsequent Government Order in G.O.(Ms)No.248, Higher Education (F2) Department dated 08.11.2022 was issued superseding G.O.(Ms)No. 56, Higher Education (F2) Department dated 21.03.2020 by restricting the number of posts to 4000.



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

WEB COPY

17. In the Government Order in G.O.(Ms)No.56, Higher Education (F2) Department, dated 21.03.2020, the Guest Lecturers working in Government Colleges were given with a hope of regularization by appointing them as Assistant Professors in Government Arts and Science Colleges and Colleges of Education in Tamilnadu Collegiate Education. The above Government Order was also put to challenge in W.P.(MD)No.3356 of 2021 and batch and the same was dismissed on 29.03.2021. Against which, a writ appeal in W.A.(MD)No. 973 of 2021 is filed before this Court and the same is pending.

18. However, some of the Guest Lecturers working in the Government Colleges have filed writ petitions in W.P.No.1971 of 2023 and batch and challenged the subsequent Government Order issued vide G.O.247, Higher Education (F2) Department, dated 08.11.2022. After having discussed the earlier benefits given to the petitioners therein in G.O.(Ms)No.56, Higher Education (F2) Department, dated 21.03.2020, the batch of writ petitions have been allowed by partially quashing the Government Order in G.O.(Ms)No.248, Higher Education (F2)



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

Department, dated 08.11.2022 insofar as it relates to 1146 posts which were already earmarked through absorption of eligible Guest Lecturers as per G.O.(Ms)No.56, Higher Education (F2) Department, dated 21.03.2020.

19. Since the Government Order in G.O.(Ms)No.248, Higher Education (F2) Department, dated 08.11.2022 has already been quashed above in part, the dispute raised in respect of the above Government Order can no more a *res integra*. So, the issue to be decided in the present batch of writ petitions is only with regard to G.O.(Ms)No.246, Higher Education (F2) Department, dated 08.11.2022 which introduced the competitive written examination and awarding of weightage marks and the G.O.(Ms)No.247, Higher Education (F2) Department, dated 08.11.2022 which allows the Guest Lecturers working in the Government Colleges to participate in the written examination.

20. G.O.(Ms)No.247, Higher Education (F2) Department, dated 08.11.2022 is consequential to G.O.(Ms)No.248, Higher Education (F2)



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

Department, dated 08.11.2022. Since G.O.(Ms)No.248, Higher Education (F2) Department, dated 08.11.2022 itself was quashed partially vide the order in W.P.No.1971 of 2023 and batch dated 02.04.2024, G.O.(Ms)No. 247, Higher Education (F2) Department, dated 08.11.2022 can not have any consequence in respect of the part of the G.O.(Ms)No.248, Higher Education (F2) Department, dated 08.11.2022, which got quashed.

21. It is to be noted here that, even though G.O.(Ms)No.248, Higher Education (F2) Department, dated 08.11.2022 was quashed, that was only in respect of those posts notified vide G.O.(Ms)No.56, Higher Education (F2) Department, dated 21.03.2020. As stated already, some of the Assistant Professors working in Private Colleges have challenged G.O.(Ms)No.56, Higher Education (F2) Department and the same is pending before this Court in W.A.(MD)No.973 of 2021. Hence, the very same issue need not be re-agitated in this petition.

22. In view of the orders dated 02.04.2024 passed in W.P.No. 1971 of 2023 and batch by quashing G.O.(Ms)No.248, Higher Education



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

(F2) Department, dated 08.11.2022, so far as it relates to 1146 posts meant for regular absorption vide G.O.(Ms)No.56, Higher Education (F2) Department, dated 21.03.2020, the petitioners can challenge G.O.(Ms)No. 248, Higher Education (F2) Department, dated 08.11.2022 only if a fresh notification is issued in this regard or original G.O.(Ms)No.248, Higher Education (F2) Department, dated 08.11.2022 is ordered to be restored in entirety.

23. The earlier Notification in Notification No.12/2019 dated 28.08.2019 and 04.10.2019 was issued to fill up 2331 posts of Assistant Professors in Tamil Nadu Collegiate Educational Service for Government Arts and Science Colleges and Colleges of Education for the year 2018-19. The said vacancies have also been merged in subsequent Government Order in G.O.(Ms)No.248, Higher Education (F2) Department dated 08.11.2022 issued for recruitment of 4000 posts of Assistant Professors. However, in view of the order passed in W.P. (MD)No.1971 of 2023 and batch dated 02.04.2024, 1146 posts can be reduced from 4000 posts and this litigation can be limited to the



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

remaining 2854 posts alone.

WEB COPY

24. Mr.A.D.Ganeshamoorthy, the learned counsel appearing for the petitioner submitted that the weightage given to the Guest Lecturers working in the Government Colleges vide G.O.(Ms)No.247, Higher Education (F2) Department dated 08.11.2022 is applicable to the remaining posts of 2854. In his submission, he stated that no written examination was the term for the results in Notification No.12/2019 dated 28.08.2019 and 04.10.2019 and hence, the selection process should not have the competitive written examination.

25. But, such a stand cannot be taken by the petitioners who are only applicants for the posts called upon by the Government. It is the policy of the Government to adopt a selection process suiting to the demands of the present day requirements and taking into consideration of competition in the job market. The petitioner cannot claim a relief for compromising the quality of selection process to the post of Assistant Professor, just because, such a pattern was not adopted in the selection



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

process notified in the earlier Notification.

26. Insofar as, the benefit of weightage given to the individuals who were working as Guest Lecturers in the Government Colleges is concerned, after having given them the benefit of absorption as against 1146 vacancies in view of the earlier G.O.(Ms)No.56, Higher Education (F2) Department, dated 21.03.2020, awarding weightage marks, will certainly affect the interest of the candidates. If weightage mark is also awarded to them, similarly placed persons working in the Private Colleges with a designation of Assistant Professors will get discriminated. It will not ensure a fair level playing field between the Guest Lecturers in the Government Colleges and the Assistant Professors in the Private Colleges to fill up these vacancies. If the Government has taken a Policy of giving weightage marks by taking into account of the experience of the applicants, such benefits shall be given to both who have worked as Guest Lecturers in the Government Colleges and Assistant Professors in the Private Colleges. The consequential G.O.(Ms)No.247, Higher Education (F2) Department, dated 08.11.2022, is discriminatory and against the right



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

to equality insofar as it relates to awarding weightage marks to the Guest Lecturers working in the Government Colleges. Hence, I feel it is fair and proper to extend the said benefit to similarly placed Assistant Professors in the Private Colleges as well.

27. If the Government decides to absorb the Guest Lecturers working in the Government Colleges, taking into consideration of their long experience and the earlier selection process they had undergone when they were invited as Guest Lecturers, the Government can take a Policy decision as how it thought fit while issuing the earlier G.O. (Ms)No.56, Higher Education (F2) Department, dated 21.03.2020, for absorption of 1146 posts. But allowing them to enter into the open competition but giving them weightage marks would definitely deprive the other candidates who come from an another stream, namely Private Colleges (Assistant Professors) to have a fair edge in the selection process.



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

28. In view of the above stated reasons, the writ petitions are **disposed of** by giving the following reliefs and observations:

(i) The relief prayed in respect of G.O.Ms.No.246, Higher Education (F2) Department, dated 08.11.2022 is not allowed.

(ii) In so far as G.O.Ms.No.248, Higher Education (F2) Department, dated 08.11.2022 is concerned, the relief has already been granted by the Hon'ble Single Judge, Principal Bench of this Court by quashing it partially in respect of 1146 vacancies earmarked for regular absorption of eligible Guest Lecturers as per G.O.Ms.56, Higher Education (F2) Department dated 21.03.2020 vide its order dated 02.04.2024 made in W.P.No.1971 of 2023.

(iii) The Government Order in G.O.Ms.No.247, Higher Education (F2) Department, dated 08.11.2022 which gives weightage marks to the Government Lecturers working in the Government Colleges is quashed. In view of the same, that part of the stipulation / instruction in the Notification No.2/2024 dated 14.03.2024 is alone quashed.



WEB COPY



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

(iv) Consequently, the first respondent is directed to consider awarding of weightage marks to both the categories of Teachers from Government and Private Colleges by giving consideration to their experience and pass orders accordingly and thereafter, the third respondent is directed to issue suitable addendum to its Notification No. 2/2024 dated 14.03.2024.

(v) The above exercise shall be completed before the completion of the selection process for the posts permitted to be recruited subsequent to the order dated 02.04.2024 in W.P.No.1971 of 2023.

(vi) Consequently, connected Miscellaneous Petitions are closed. No costs.

15.04.2024
(2/2)

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

mbi



WEB COPY



W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

R.N.MANJULA, J.

mbi

To

1.The Principal Secretary to Government,
Higher Education Department,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.

2.The Director,
The Director of Collegiate Education,
EVK Sampath Maaligai,
DPI Campus,
Nunkampakkam,
Chennai - 600 006.

W.P.(MD)Nos.8127 of 2024 & 13486 to 13494 of 2023

15.04.2024
(2/2)