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W.P.(MD)No.5431 of 2017

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 24.09.2024**

**CORAM**

**THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE**

**W.P.(MD)No.5431 of 2017**

A.Joseph

: Petitioner

Vs.

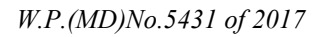
1.The Chief Educational Officer,  
O/o. the Chief Educational Officer,  
Tuticorin District.

2.The District Educational Officer,  
O/o. the District Educational Officer,  
Tuticorin District.

3.The Correspondent,  
St. Francis Xavier's Higher Secondary School,  
Tuticorin – 628 001.

: Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No. 7438/Aa4/2016 dated 11.03.2017 on the file of the first respondent and quash the same as illegal and consequently for a direction, directing the first respondent to regularize the services of the petitioner as B.T. Assistant in Mathematics from 11.06.2007 to



For Petitioner : Mr.G.Karthick  
for M/s.T.Lajapathi Roy & Associates  
For Respondents 1&2 : Mr.T.Amjad Khan  
Government Advocate  
For Respondent No.3 : Ms.Rooshi Mass  
for M/s.Isaac Chambers

This Writ Petition has been filed challenging the order dated 11.03.2017 passed by the first respondent rejecting the petitioner's request to regularise his services as B.T. Assistant in Mathematics in the third respondent school from 11.06.2007 which is the date of his appointment.

**2.**Under the impugned order, the petitioner's request has been rejected by giving the following reasons:

a) As per G.O.Ms.No.144, School Education (D1) Department dated 04.07.2008, the date of conversion of the Secondary Grade post to B.T. Assistant post has to be treated as the date of appointment of the petitioner. According to the respondents, since the approval for conversion in the case of the petitioner from



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the secondary grade post to a B.T. Assistant post was granted on 01.10.2009, the said date is deemed to be the date when the regularisation of the petitioner in the post of B.T. Assistant in Mathematics comes into effect.

b) As per the letter proceedings dated 26.10.2004 of the respondent, it mandates subject-wise rotation and since as per the subject-wise rotation, approval can be granted only for B.T. Assistant [Science] in the year 2007, the question of regularizing the services of the petitioner as B.T. Assistant in Mathematics from 11.06.2007 is not permissible.

3.Learned Counsel for the petitioner would submit that insofar as the first ground for rejection referred to supra is concerned, G.O.Ms.No.144, School Education (D1) Department dated 04.07.2008, relied upon by the official respondents while rejecting the petitioner's request is not applicable to minority institutions and the third respondent school in which the petitioner is working is a minority institution. In support of the said contention, learned Counsel for the petitioner as well as the learned Counsel for the third respondent school drew the attention of this Court to a Division Bench judgment of this Court dated **14.11.2017** passed in the case of ***Government of Tamil Nadu and others Vs. J.Remila and***



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**another in W.A.(MD)No.1350 of 2017.** Relying upon the aforesaid decision, they would submit that G.O.Ms.No.144, School Education (D1) Department dated 04.07.2008, relied upon by the official respondents are not applicable to the Government Aided Schools and further in the decision rendered by a learned Single Judge of this Court dated **29.01.2014**, in **W.P.(MD)No.17562 of 2012**, rendered by one of the Judges of the Division Bench judgment referred to supra **[M.VENUGOPAL, J.]**, which was followed by the Division Bench in the aforesaid decision, it has been held that the date of approval of the conversion of post relates back to the date of appointment. Therefore, learned Counsel for the petitioner would submit that the first ground of rejection under the impugned order referred to supra is incorrect and is contrary to the well settled law which makes it clear that G.O.Ms.No.144, School Education (D1) Department dated 04.07.2008, is not applicable to minority institutions and the date of approval of the conversion of the post of B.T. Assistant relates back to the date of appointment of the petitioner in the third respondent school. According to learned Counsel for the petitioner, since the date of appointment of the petitioner as B.T. Assistant [Mathematics] in the third respondent school was on 11.06.2007, the date of approval of the conversion of post should relate back to the date of appointment ie., from 11.06.2007.



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4. With regard to the second ground of rejection under the impugned order namely the reliance placed upon the letter proceedings dated 26.10.2004, issued by the respondents is concerned, learned Counsel for the petitioner would submit that the letter proceedings dated 26.10.2004 issued by the respondents has been quashed by this Court in W.P.(MD)No.7717 of 2006 by order dated 18.10.2006. Therefore, learned Counsel for the petitioner would submit that the second ground for rejection is also arbitrary and has been relied upon in the impugned order by total non-application of mind to the fact that the letter proceedings dated 26.01.2004 has been quashed by this Court by its order dated 18.10.2006 passed in W.P.(MD)No.7717 of 2006.

5. On the other hand, learned Government Advocate appearing for the official respondents would reiterate the contents of the counter affidavit filed by the second respondent before this Court. He would once again reiterate by stating that when the third respondent school has sought for approval for converting from B.T. Assistant [Science] to B.T. Assistant [Mathematics] and the approval having been given, the respondents were correct in treating the date of appointment of the petitioner in the third respondent school only with effect from the date of approval granted for the said conversion.



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However, as seen from the decision relied upon by the learned Counsel for the petitioner referred to supra, it is clear that G.O.(Ms).No.144, relied upon by the respondents under the impugned order does not apply to minority institutions.

6.In the Division Bench judgment relied upon by the learned Counsel for the petitioner as well as the learned Counsel for the third respondent in the case of the ***Government of Tamil Nadu and others Vs. J.Remila and another in W.A.(MD)No.1350 of 2017 dated 14.11.2017***, it has been made clear that G.O.(Ms)No. 144 relied upon by the respondents under the impugned order is not applicable to minority institutions and to Government Aided Schools. In the said decision, the Division Bench has also taken note of the fact that a learned Single Judge of this Court ***[M.VENUGOPAL, J.]*** who was part of the Division Bench also in his order dated ***29.01.2014*** passed in ***W.P.(MD)No.17562 of 2012 in the case of S.Anthuvan Christi Raj Vs. The State of Tamil Nadu***, has also held that the date of approval of the conversion of the post relates back to the date of appointment of the Teacher in the concerned institution.

7.The Division Bench of this Court in the aforesaid decision has also highlighted the rights of the minority institutions and as to



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how those rights are protected under Article 30(1) of the Constitution of India. The Division Bench has also held by following various decisions that Article 30(1) cannot be read in a narrow and pedantic sense and being a fundamental right, it should be given its widest amplitude. The Division Bench has also held that the width of Article 30(1) cannot be cut down by introducing considerations which are destructive to the substance of the right enshrined therein.

**8.**In the case on hand, admittedly, the third respondent institution in which the petitioner is working as a B.T. Assistant [Mathematics] is a minority institution. By total non-application of mind to the fact that the third respondent school is a minority institution and therefore, G.O.(Ms).No.144 does not apply to them and the letter proceedings dated 26.10.2004 issued by the respondents has already been quashed by an order dated 18.10.2006 passed in W.P.(MD)No.7717 of 2006, the respondents under the impugned order has arbitrarily rejected the third respondent's request for regularizing the petitioner's services as B.T. Assistant in [Mathematics] from 11.06.2007, being the date of his appointment by the third respondent school but instead has regularized the services of the petitioner only with effect from 01.10.2009 being the date on which the post conversion approval was granted by the respondents which is erroneous and therefore, necessarily the



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impugned order has to be quashed and the writ petition will have to be allowed.

**9.**For the foregoing reasons, the impugned order dated 11.03.2017 passed by the first respondent is hereby quashed and the writ petition is allowed by directing the first respondent to regularize the services of the petitioner as B.T. Assistant [Mathematics] from 11.06.2007 instead of 01.10.2009. With regard to the consequential direction sought for by the petitioner, namely consequential benefits, the petitioner is directed to give a representation to the respondents for the same and a direction is issued to the official respondents to consider the same on merits and in accordance with law once such a direction is given by the petitioner as expeditiously as possible.

**10.**Accordingly, this Writ Petition stands allowed. There shall be no order as to costs.

**24.09.2024**

Index :Yes / No  
Internet : Yes / No  
NCC : Yes/No  
MR



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To

- 1.The Chief Educational Officer,  
O/o. the Chief Educational Officer,  
Tuticorin District.
  
- 2.The District Educational Officer,  
O/o. the District Educational Officer,  
Tuticorin District.



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**ABDUL QUDDHOSE, J.**

MR

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