



W.P.(MD).Nos.25329 and 25330 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.25329 and 25330 of 2024

and

W.M.P(MD) Nos.21500 to 21503 of 2024

W.P(MD) No.25329 of 2024:

G.R.Balaji
P.G.Assistant (Physics)
Syed Ammal Higher Secondary School,
Ramanathapuram.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government
School Education Department,
Fort St.George,
Secretariat, Chennai – 600 009.
2. The Director of School Education,
DPI Campus,
Nungampakkam,
College Road,
Chennai – 6.
3. The Chief Educational Officer,
Office of the Chief Educational Office,
Ramanathapuram District,
Ramanathapuram.



W.P.(MD).Nos.25329 and 25330 of 2024

4. The District Educational Officer

(Elementary)

Office of the District Educational Office,
Ramanathapuram,
Ramanathapuram District.

5. The Correspondent,

Syed Ammal Higher Secondary School,
Ramanathapuram,
Ramanathapuram District.

... 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 relating to the impugned order passed by the third respondent vide his proceedings in Pa.Mu.No.1944/A3/2023, dated 14.10.2024 and quash the same as illegal and consequentially to direct the third respondent to approve the appointment of the petitioner as P.G.Assistant (Physics) w.e.f. 01.04.2023 with all other service and monetary benefits including the arrears of salary within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Ajmalkhan
for M/s.Ajmal Associates
Senior Counsel

For R1 to R4 : Mr.T.Amjadkhan
Government Advocate

R5 : No appearance



W.P.(MD).Nos.25329 and 25330 of 2024

W.P(MD) No.25330 of 2024:

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P.Ashok Kumar
P.G.Assistant (Chemistry)
Syed Ammal Higher Secondary School,
Ramanathapuram.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government
School Education Department,
Fort St.George,
Secretariat, Chennai – 600 009.

2. The Director of School Education,
DPI Campus,
Nungampakkam,
College Road,
Chennai – 6.

3. The Chief Educational Officer,
Office of the Chief Educational Office,
Ramanathapuram District,
Ramanathapuram.

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Office of the District Educational Office,
Ramanathapuram,
Ramanathapuram District.

5. The Correspondent,
Syed Ammal Higher Secondary School,
Ramanathapuram,
Ramanathapuram District.

... Respondents



W.P.(MD).Nos.25329 and 25330 of 2024

WEB COPY

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 relating to the impugned order passed by the third respondent vide his proceedings in Pa.Mu.No.12410/A3/2023, dated 14.10.2024 and quash the same as illegal and consequentially to direct the third respondent to approve the appointment of the petitioner as P.G.Assistant (Chemistry) w.e.f. 20.07.2023 with all other service and monetary benefits including the arrears of salary within the period that may be stipulated by this Court.

For Petitioner	: Mr.M.Ajmalkhan for M/s.Ajmal Associates Senior Counsel
For R1 to R4	: Mr.T.Amjadkhan Government Advocate
R5	: No appearance

COMMON ORDER

The instant Writ Petitions have been filed by the P.G.Assistant (Physics) Teacher and P.G.Assistant (Chemistry) Teacher, challenging the orders passed by the Chief Educational Officer, Ramanathapuram, wherein their appointments have not been approved.



W.P.(MD).Nos.25329 and 25330 of 2024

WEB COPY

2. The petitioner, namely, G.R.Balaji was appointed as a P.G.Assistant (Physics) in the fifth respondent School on 01.04.2023. The petitioner, namely, P.Ashok Kumar was appointed as a P.G.Assistant (Chemistry) Teacher in the fifth respondent School on 20.07.2023. The appointment orders were forwarded to the Chief Educational Officer, Ramanathapuram for their approval. Under two separate impugned orders, approval has been rejected on the following grounds:

a. There are B.T.Assistant surplus teachers within the School Management having qualification to be promoted as PG Assistants. Their claim has not been considered. In case, if they have relinquished their right of promotion, the same has not been recorded in the Service Rules.

b. Section 28(2) (a) (2) of Tamil Nadu Private Schools (Regulation) Rules, 2023 has not been followed.

3. According to the learned Senior Counsel appearing for the writ petitioners, Rule 28 (2) is not applicable to a minority institution. The Hon'ble Division Bench of our High Court in judgement reported in **2007 (4) L.W. 617 (Eka Ratchagar Sabai Higher Secondary School, represented by its**



W.P.(MD).Nos.25329 and 25330 of 2024

WEB COPY

Correspondent and another Vs. K.Sumathi and another has held that the said Rule is not applicable to a minority institution. Therefore, the authorities cannot insist upon the minority institution to follow Rule 28 (2) of the New Rules.

4. The learned Senior Counsel appearing for the petitioner has further contended that, in case if there are BT Assistant surplus teachers, they can only redeploy and such a surplus cannot be cited for not approving the appointment of P.G.Assistant. He further contended that as on today, there are no B.T Assistant surplus teachers. Further all those who are qualified have already given letter relinquishing their promotion and therefore, such a contention cannot be raised by the authorities.

5. Per contra, the learned Government Advocate appearing for the respondents 1 to 4 had contended that there are surplus teachers in the cadre of B.T Assistant in the petitioner's School. Some of them are qualified to be appointed as PG Assistants. In case, if they had given any relinquishing letter, the same should be recorded in the Service Book. Unless the same is recorded in the Service Book, their names have to be considered for being promoted as



W.P.(MD).Nos.25329 and 25330 of 2024

a P.G.Assistant. Without promoting qualified B.T.Assistant, candidates in the said school, the petitioners' Management cannot go for a direct recruitment of PG Assistants. Therefore, he prayed for sustaining the orders passed by the authorities.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. The fifth respondent School is an aided minority stand alone institution. The said fact is not disputed by the authorities. Therefore, as rightly contended by the learned Senior Counsel appearing for the writ petitioners, Rule 28 (2) [old Rule 15(4) of the Tamil Nadu Private Schools (Regulations) Rules 1974] is not applicable in the minority institutions. In such circumstances, even assuming that there are qualified B.T.Assistants within the School, the question of not approving the appointment of P.G.Assistants would not arise. The minority institution cannot be insisted to promote the qualified B.T.Assistants within their school. That apart, it is contended that none of the B.T.Assistant Teachers have expressed willingness to be promoted as P.G.Assistant. None of the B.T.Assistant Teachers have



W.P.(MD).Nos.25329 and 25330 of 2024

approached this Court challenging the appointment of the writ petitioners. In such circumstances, this Court is not inclined to accept the contentions of the learned Government Advocate appearing for the respondents 1 to 4.

8. Even assuming that there are qualifying B.T Assistants, who are in surplus in the respondent Management, it is for the educational authorities to pass appropriate orders. Such a ground cannot be a legal impediment for approving the appointment of P.G.Assistants, who have been appointed within the sanctioned strength as per the staff fixation order for the relevant academic year, namely 2022-2023.

9. In view of the above said deliberations, the orders impugned in the writ petitions are set aside and the third respondent is directed to approve the appointment of the writ petitioners with effect from the date of their initial appointment and to disburse the monetary benefits within a period of twelve weeks from the date of receipt of a copy of this order.



W.P.(MD).Nos.25329 and 25330 of 2024

WEB COPY

10. With the above said observations, these Writ Petitions stand allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

19.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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College Road, Chennai – 6.
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WEB COPY



W.P.(MD).Nos.25329 and 25330 of 2024

R.VIJAYAKUMAR,J.

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W.P(MD)Nos. 25329 and 25330 of 2024

19.12.2024