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W.P.No.8543 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE **M.S. RAMESH**
AND
THE HONOURABLE MR. JUSTICE **V.LAKSHMINARAYANAN**

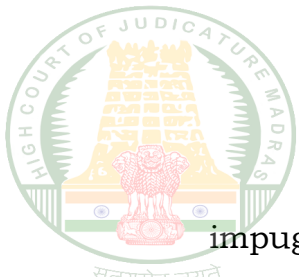
Writ Petition No.8543 of 2025 &
WMP.No.9561 of 2025

- 1.The Commissioner,
Kendriya Vidyalaya Sangathan,
18 Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi – 110016.
- 2.Kendriya Vidyalaya Sangathan,
rep. by Joint Commissioner (Admn) (Grievance),
18 Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi – 110016.
- 3.The Deputy Commissioner (Grievance Cell),
Kendriya Vidyalaya Sangathan,
IIT Campus, Chennai 600036. ... Petitioners

Vs.

- 1.Mary Snegapammal
- 2.The Union of India,
rep by its Secretary to the Government of India,
Ministry of Human Resources Development,
New Delhi – 110001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari calling for the records of the Central Administrative Tribunal, Madras Bench culminating in the



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impugned order dated 04.08.2023 in O.A.No.921 of 2017 and quash the same.

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For Petitioners : Mr.M.Vaidhiyanathan

Respondent 1 : Ms.A.Arulmozhi

ORDER

*(Order of the Court was made by **V.LAKSHMINARAYANAN, J.**)*

We heard Mr.M.Vaidhiyanathan for the writ petitioners and Ms.A.Arulmozhi for the first respondent. The petitioners seek for the following relief:

“To call for the records of the Central Administrative Tribunal, Madras Bench culminating in the impugned order dated 04.08.2023 in O.A.No.921 of 2017 and quash the same.”

2. The first respondent was the applicant, the second respondent was the first respondent and the petitioners were the respondents 2 to 4 before the Central Administrative Tribunal (hereinafter referred to as “CAT”).

3. For the sake of convenience, the parties shall be referred to as per their ranks before the CAT.



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4. The undisputed facts are the applicant joined Kendriya Vidyalaya Sangathan at Satakha in Nagaland. The applicant was appointed as a Lower Division Clerk (LDC) on adhoc basis from 21.06.1985. This arrangement continued till 24.12.1985. Thereafter, the applicant was reappointed as LDC for the following terms:

- (i) 13.02.1986 to 24.12.1986
- (ii) 17.04.1987 to 30.04.1987
- (iii) 02.05.1987 to 27.10.1987
- (iv) 28.10.1987 to 22.12.1987
- (v) 14.02.1988 to 22.12.1988
- (vi) 16.02.1989 to 21.05.1989

During the terms (iv) and (v) set forth above, the applicant worked as daily wages (LDC) and for the last term, as a part time LDC on full time basis. The applicant's service was regularised on 21.11.1988 and was issued a regular order of appointment on 16.05.1989.

5. The applicant sought for counting her services as adhoc/daily wages LDC as regular services for increment purposes. This representation was submitted on 21.09.1999. It was forwarded to the office of the Deputy Commissioner, Kendriya Vidyalaya Sangathan on 17.11.1989. There was no response to the said representation. Though she renewed her representation regularly, no action was



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taken by the respondents.

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6. The applicant submitted a fresh representation on 23.09.2015 to the same effect. She followed this up with a further appeal on 01.01.2016. Subsequently, she opted for voluntary retirement and the same was accepted on 29.02.2016. It was only after her retirement, her request, which had been made earlier for counting her past services on adhoc/daily basis as regular services, came to be rejected. It was rejected on 31.03.2016.

7. The applicant renewed her request again on 24.01.2017 with reminders on 27.02.2017 and 20.03.2017. By an order dated 28.04.2017, her request was rejected and the decision already taken was reiterated. Challenging the same, the applicant approached CAT in OA.No.921/2017.

8. The CAT took the application on file and issued notice to the respondents. The respondents pleaded that the applicant's services were not regularised as there was a break, and that Rule 13 of the Central Civil Services (Pension) Rules, 1972, does not permit such a break.

9. The CAT, after analysis of the application and the counter,



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allowed the application directing the respondents to count the services of the applicant on ad hoc, part time and casual basis from 21.06.1985, till the date of her regular appointment on 22.05.1989, as regular service towards pensionary benefits and extend the benefit with all consequential reliefs within a period of three months from the date of receipt of a copy of the order.

10. Challenging the same, the present writ petition.

11. We have considered the submissions made on either side and have carefully gone through the records.

12. The facts set forth above show that the applicant had been terminated in December and reappointed in February. This procedure seems to have been followed on several occasions. The reason why the applicant had been terminated in December and reappointed in February would have cast a doubt about break in service, had the petitioner not been working in the north-eastern parts of this country. As rightly contended by Ms.Arulmozhi, in the north-eastern States, schools close for vacation in December and reopen only in February. Therefore, the breaks given in the service are only artificial and not natural.



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13. This very issue had been gone into by the Supreme Court in

Rudra Kumar Sain v. Union of India, (2000) 8 SCC 25. The court

held as follows:

“15. So far as the terminology used in Singla case [(1984) 4 SCC 450 : 1984 SCC (L&S) 657 : (1985) 1 SCR 351] , namely “ad hoc”, “fortuitous” and “stopgap”, the same is quite familiar in the service jurisprudence. Mr Rao, appearing for the High Court of Delhi however contended before us that the said terminology should be given the same meaning, as was given in Parshotam Lal Dhingra v. Union of India [AIR 1958 SC 36 : 1958 SCR 828] . In Dhingra case [AIR 1958 SC 36 : 1958 SCR 828] the Court was examining whether removal of an employee can be held to be penal and whether Article 311(2) of the Constitution can at all be attracted and the Court also observed that certain amount of confusion arises because of the indiscriminate use of the words “provisional”, “officiating” and “on probation”. We do not think that the concept or meaning given to those terminology in Dhingra case [AIR 1958 SC 36 : 1958 SCR 828] will have any application to the case in hand, where the Court is trying to work-out an equitable remedy in a manner which will not disentitle an appointee, the benefit of his fairly long period of service for the purpose of seniority, even though he possesses the requisite qualification and even though his



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appointment has been made after due consultation and/or approval of the High Court.

16. The three terms “ad hoc”, “stopgap” and “fortuitous” are in frequent use in service jurisprudence. In the absence of definition of these terms in the Rules in question we have to look to the dictionary meaning of the words and the meaning commonly assigned to them in service matters. The meaning given to the expression “fortuitous” in Stroud's Judicial Dictionary is “accident or fortuitous casualty”. This should obviously connote that if an appointment is made accidentally, because of a particular emergent situation and such appointment obviously would not continue for a fairly long period. But an appointment made either under Rule 16 or 17 of the Recruitment Rules, after due consultation with the High Court and the appointee possesses the prescribed qualification for such appointment provided in Rule 7 and continues as such for a fairly long period, then the same cannot be held to be “fortuitous”. In Black's Law Dictionary, the expression “fortuitous” means “occurring by chance”, “a fortuitous event may be highly unfortunate”. It thus, indicates that it occurs only by chance or accident, which could not have been reasonably foreseen. The expression “ad hoc” in Black's Law Dictionary, means “something which is formed for a particular purpose”. The expression “stopgap” as per Oxford Dictionary, means “a temporary way of dealing with a problem or satisfying a need”.



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17. In Oxford Dictionary, the word “ad hoc” means for a particular purpose; specially. In the same dictionary, the word “fortuitous” means happening by accident or chance rather than design.

18. In P. Ramanatha Aiyar's Law Lexicon (2nd Edn.) the word “ad hoc” is described as: “For particular purpose. Made, established, acting or concerned with a particular (sic) and or purpose.” The meaning of word “fortuitous event” is given as “an event which happens by a cause which we cannot resist; one which is unforeseen and caused by superior force, which it is impossible to resist; a term synonymous with Act of God”.

19. The meaning to be assigned to these terms while interpreting provisions of a service rule will depend on the provisions of that rule and the context in and the purpose for which the expressions are used. The meaning of any of these terms in the context of computation of inter se seniority of officers holding cadre post will depend on the facts and circumstances in which the appointment came to be made. For that purpose it will be necessary to look into the purpose for which the post was created and the nature of the appointment of the officer as stated in the appointment order. If the appointment order itself indicates that the post is created to meet a particular temporary contingency and for a period specified in the order, then the appointment to such a post can be aptly described as “ad hoc” or “stopgap”. If a post is created to meet a situation which has suddenly arisen on account of happening



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of some event of a temporary nature then the appointment of such a post can aptly be described as “fortuitous” in nature. If an appointment is made to meet the contingency arising on account of delay in completing the process of regular recruitment to the post due to any reason and it is not possible to leave the post vacant till then, and to meet this contingency an appointment is made then it can appropriately be called as a “stopgap” arrangement and appointment in the post as “ad hoc” appointment. It is not possible to lay down any strait-jacket formula nor give an exhaustive list of circumstances and situation in which such an appointment (ad hoc, fortuitous or stopgap) can be made. As such, this discussion is not intended to enumerate the circumstances or situations in which appointments of officers can be said to come within the scope of any of these terms. It is only to indicate how the matter should be approached while dealing with the questions of inter se seniority of officers in the cadre.

20. In service jurisprudence, a person who possesses the requisite qualification for being appointed to a particular post and then he is appointed with the approval and consultation of the appropriate authority and continues in the post for a fairly long period, then such an appointment cannot be held to be “stopgap or fortuitous or purely ad hoc”. In this view of the matter, the reasoning and basis on which the appointment of the promotees in the Delhi Higher Judicial Service in the case in hand



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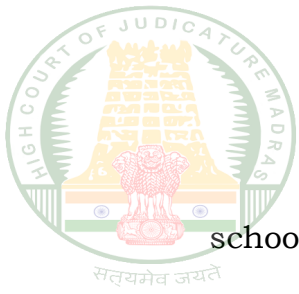


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was held by the High Court to be “fortuitous/ad hoc/stopgap” are wholly erroneous and, therefore, exclusion of those appointees to have their continuous length of service for seniority is erroneous.”

14. This view had been yet again approved by it in ***Secretary Minor Irrigation Department & RDS v. Narendra Kumar Tripathi, (2015) 11 SCC 80***. The principles that flow out of the judgments are that the qualifying service of the Government servant commences from the date when he takes charge of the post to which, he or she is first appointed, either substantively or in any officiating or temporary capacity. First proviso to Rule 13 of the CCS (Pension) Rules, 1972 states that the officiating or temporary capacity should be followed without interruption by a substantive appointment in the same or other service or post. The interruption should not be an artificial one as interpreted by the Division Bench of Andhra Pradesh High Court in ***Prabhakar Joshi v. Kendriya Vidyalaya Sangathan, New Delhi, (2002) 2 ALD 320***.

15. If the aforesaid principles are applied to the facts of the present case, it is clear that the applicant was appointed to a substantive post, though temporarily from 21.06.1985 and continued till 21.05.1989 with artificial breaks on account of the closure of the



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schools in Nagaland, due to Christmas celebration. That being the position, we do not find any error in the order passed by the CAT. It has applied the correct position of law to the facts of the case. We find no reasons to interfere.

16. The writ petition is dismissed. No cost. Consequently, the connected miscellaneous petition is closed. The respondents are granted three months' time from the date of receipt of a copy of this order to pass appropriate order regularising the service and to disburse the benefits to the applicant.

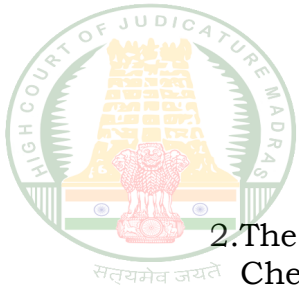
(M.S.R, J.) (V.L.N, J.)
14.07.2025

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Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation : Yes/No

To

1.The Secretary to the Government of India,
Ministry of Human Resources Development,
New Delhi – 110001.



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2.The Central Administrative Tribunal,
Chennai Beach, Chennai

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**M.S. RAMESH, J.
and
V.LAKSHMINARAYANAN, J.**

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