



WP.No.16188 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.07.2025

PRONOUNCED ON : 11.07.2025

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP.No.16188 of 2025

and

WMP.No.18311 of 2025

K.M.Chinnasamy
S/o K Muthusamy
B.T. Assistant
Diamond Jubilee Higher Secondary School
Gobichettipalayam,
Erode District

... Petitioner

Vs.

1. The Chairman,
Teachers Recruitment Board,
College Road, Chennai-6.
2. The Member Secretary
Teachers Recruitment Board
College Road, Chennai 6.
3. The Director Of School Education
DPI Compound
College Road,
Chennai 600006.
4. The Secretary,
Diamond Jubilee Higher Secondary School
Gobichettipalayam,
Erode District.

... Respondents



WP.No.16188 of 2025

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, Calling for the records relating to the 3rd respondent herein in Na.Ka.no 072548/ W5/E1/2022 dated 25.3.2023 and quash the same and consequently direct the respondents 1 to 3 to confer the post of P.G. Assistant in Botany to the petitioner in the existing vacancies in the light of the order passed in W.P. no 20896 of 2008 dated 23.3.2009 and confirmed in W.A. 2427/ 2010 dated 19.4.2013.

For Petitioner : Mr.R.S.Anandan

For Respondents : M/s.C.Kathiravan St. Counsel
For R1 and R2
Mr.S.Prabhakaran,
Govt. Advocate For R3
Mr.R.D.Ashokkumar
For M/s.S.N.Ravichandran For R4

ORDER

This writ petition has been filed to call for the records relating to the 3rd respondent herein in Na.Ka.No.072548/ W5/E1/2022 dated 25.03.2023 and quash the same and consequently direct the respondents 1 to 3 to confer the post of P.G. Assistant in Botany to the petitioner in the existing vacancies in the light of the order passed in W.P. no 20896 of 2008 dated 23.3.2009 and confirmed in W.A. 2427/ 2010 dated 19.4.2013.

2. Heard Mr.R.S.Anandan, learned counsel for the petitioner,

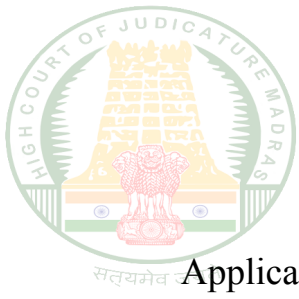


WP.No.16188 of 2025

WEB COPY

Mr.C.Kathiravan, learned Standing Counsel [TRB] for the respondents 1 and 2, Mr.S.Prabhakaran, learned Government Advocate for the third respondent and Mr.R.D.Ashok Kumar for Mr.S.N.Ravichandran, learned counsel for the fourth respondent.

3. The learned counsel for the petitioner would submit that the petitioner is working as a B.T. Assistant (Science) Teacher in the 4th respondent's school and he has registered his name in the Employment Exchange on 15.07.1993 after completing his Post Graduate degree in Botany and B.Ed. Subsequently, the petitioner completed M.Ed., degree in 1996 and M.Phil in 2000. The learned counsel for the petitioner would submit that according to the Employment Exchange Seniority, the petitioner is entitled to be appointed for the post of P.G. Assistant in Botany. However, since the respondent permitted transfer of seniority from one District to another District, the petitioner's name was not sponsored for the appointment of P.G.Assistant post, which necessitated the petitioner to file a writ petition in WP.No.12489 of 2008, wherein this Court directed the respondents to appoint the petitioner in the post of P.G Assistant. When the respondents refused to appoint the petitioner vide order dated 27.04.2009 against which the petitioner preferred the contempt

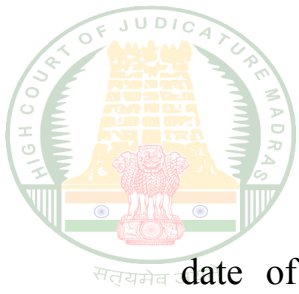


WP.No.16188 of 2025

WEB COPY

Application in Contempt Petition No.1073 of 2010 and thereafter, the respondents preferred Writ Appeal in WA.No.2427 of 2010, wherein, the order of the learned Single Judge granting appointment to the petitioner is confirmed. It is the specific submission of the petitioner that in spite of the positive direction by the learned Single Judge, which was later confirmed by the Hon'ble Division Bench, the respondents refused to issue the posting order.

4. Per contra, the learned Government Advocate would contend that the petitioner is now aged about 59 years and as per G.O.(Ms).No.185, School Education Department, dated 21.10.2023, the maximum age for the appointment of P.G.Assistant for the General Category is 53 years and for other categories is 58 years. Therefore, contended that apart from other grounds, on this ground itself, this writ petition is not maintainable. It is the further submission of the learned Government Advocate that in pursuance of the order dated 23.03.2009 in WP.No.20896 of 2008, the respondents passed a rejection order on 27.04.2009 and such rejection order has not been challenged. Therefore, the present writ petition challenging the subsequent rejection order is not maintainable. Apart from that, it was contended that, even according to the petitioner, it is his categorical submission that on the



WP.No.16188 of 2025

WEB COPY

date of the order of the learned Single Judge viz., on 07.07.2008, the Employment Exchange seniority viz., the Selection cut-off date was 28.07.1988 under B.C community, whereas, the petitioner's Employment Exchange Seniority is dated 15.07.1993, which is not at all within the zone of consideration. Hence, prayed to dismiss the writ petition.

5. I have given my anxious consideration to either side submissions.

6. The prime contention put forth by the learned counsel for the petitioner is that there was a positive direction in the writ petition in WP.No.20896 of 2008 vide order dated 23.03.2009, however, the respondents did not comply the same. But, we may find from the harmonious reading of that order that there is no positive direction, on the contrary the direction is, “to consider the name of the petitioner for appointment to the post of P.G.Assistant in Botany in Erode District, in accordance with law, and pass appropriate orders, if the petitioner is otherwise eligible and there are no other legal impediment”. Therefore, the above order of this Court would definitely be a direction given to the respondents to consider the petitioner's candidature according to it's own merits and in accordance with law.



WP.No.16188 of 2025

WEB COPY

7. Based on the above direction, the respondents vide order dated 27.04.2009 has considered the petitioner's candidature and rejected on the ground that he has no employment seniority to the post of P.G. Assistant Botany. As on 27.04.2009, the eligible employment registration seniority is dated 28.07.1988, whereas the petitioner's employment seniority registration is 15.07.1993. Thus, as rightly contended by the learned Government Advocate, the earlier rejection order dated 27.04.2009 has not been disputed.

8. Though the learned counsel for the petitioner invited the attention of this Court that he has preferred a Contempt Petition in Cont.P.No.1073 of 2010, he did not submit any order passed thereon, so as to arrive at a conclusion that the earlier order of the respondent dated 27.04.2009 was under challenge. As a matter of fact, subsequent to the above rejection order dated 27.04.2009, the Hon'ble Division Bench of this Court in an appeal filed against the order of the learned Single Judge in WP.No.20895 of 2008 in WA.No.2427 of 2010 vide order dated 19.04.2013, though confirmed the order of the learned Single Judge, had not dealt anything about the order dated 27.04.2009. As such, the contention of the learned Government Advocate that the present



WP.No.16188 of 2025

WEB COPY

writ petition is not maintainable on the ground of non challenging of the earlier order dated 27.04.2009 deserves to be accepted.

9. Apart from that, while looking at the prayer, the petitioner seeks an appointment to the post of P.G.Assistant Botany, but admittedly his present age is 59 years. According to the G.O.(Ms).No.185 dated 21.10.2023, the required age for other than General category is 58 years. Even for argument sake, if we accept that the petitioner's inaction in not challenging the earlier order dated 27.04.2009 is not an impediment to file the present writ petition, the petitioner's contention is fundamentally on the point that there was a positive direction by this Court, which we already found it to be an incorrect statement. This Court absolutely finds no iota of indication to arrive at a conclusion that the order of this Court contains a positive direction.

10. Even while looking at the impugned order, the rejection was on the ground that the appointment would only be given based upon the selection by the Teachers Recruitment Board, in which this Court does not find any infirmity as the Government now recruiting the Teachers only through Teachers Recruitment Board. Apart from that, even based upon the employment exchange seniority, the petitioner did not meet with the required



WP.No.16188 of 2025

WEB COPY

seniority, and in the meanwhile, he also became over aged for Government employment. Hence, this Court does not find any infirmity in the impugned order.

11. In the result, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected WMP is also closed.

11.07.2025

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Index : Yes/No

Speaking order Order

Neutral Citation : Yes/No

To

1. The Chairman,
Teachers Recruitment Board,
College Road, Chennai-6.
2. The Member Secretary
Teachers Recruitment Board
College Road, Chennai 6.
3. The Director Of School Education
DPI Compound College Road,
Chennai 600006.
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WEB COPY



WP.No.16188 of 2025

C.KUMARAPPAN, J.

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WP.No.16188 of 2025

11.07.2025