



W.P. No. 17892 and 17901 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 17892 and 17901 of 2019

and

W.M.P. Nos. 17300 and 17307 of 2019

G.Nithyadevi

... Petitioner in W.P. No.17892 of 2019

T.Muthu Irulandi

... Petitioner in W.P. No.17901 of 2019

-VS-

1. The Director of School Education
College Road, Chennai-600006.

2. The Chief Educational Officer
Chennai Chief Educational Office
Chennai District-600008.

3. The District Educational Officer
West Chennai, Chennai District-602006.

4. The Correspondent
W.P.A.Sundarapandian Higher Secondary School
Ayanavaram-600023
Chennai District.

... Respondents in WPs

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue Writs of Certiorarified Mandamus, calling for the entire records connected with the impugned orders of the second respondent passed in Oo.Mu.No.9454/E4/2018 and Oo.Mu.No.9455/E4/2018 dated 27.05.2019 and quash the same and directing the second respondent to approve the appointment of the petitioners as Vocational Teacher (Computer) in the



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petitioners School w.e.f. 02.07.2018 with all consequential benefits, based on the proposal by the fourth respondent dated 10.07.2018.

For Petitioners : Mr.P.Ganesan (both Wps)

For Respondents : Mrs.P.Rajarajeswari, GA (both Wps)

COMMON ORDER

These writ petitions have been filed to call for the entire records connected with the impugned orders of the second respondent passed in Oo.Mu.No.9454/E4/2018 and Oo.Mu.No.9455/E4/2018 dated 27.05.2019 and quash the same and directing the second respondent to approve the appointment of the petitioners as Vocational Teacher (Computer) in the petitioners School w.e.f. 02.07.2018 with all consequential benefits, based on the proposal by the fourth respondent dated 10.07.2018.

2. The petitioners are working as Computer Instructors in the fourth respondent School. They are also qualified to act as Computer Teachers to every vacancy arises in the permanent post of Computer Teachers and the petitioners have been appointed and the proposals have been sent to the second respondent for approval. The approval was rejected for the reasons that the Government has issued an order stating that the incumbents who have been



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working in the sanctioned post once retired or promoted under fresh

appointments can be made.

3. The Government orders issued in G.O. Ms. No.967, Education (HS.3)

Department, dated 16.10.1992 reads as under:-

“4. Government examined the matter carefully based on the recommendations of the Director of School Education and they have decided:-

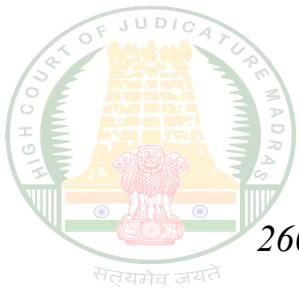
(a) to ordering 587 fully qualified double part time teachers into regular scale of pay.

(b) unqualified 450 double part time teachers may be trained and absorbed in the regular scales of pay.

(c) to bring all qualified single part time teachers into existing /sanctioned secondary grade posts and

(d) other unqualified single part time Teachers may be given training and absorbed as secondary grade teachers in future.

5. I. Sanction is accordingly accorded to the creation of 587 (Five Hundred and Eighty Seven Only) posts of vocational instructors in the scale of pay of Rs.1400-40-1600-50-2300-60-



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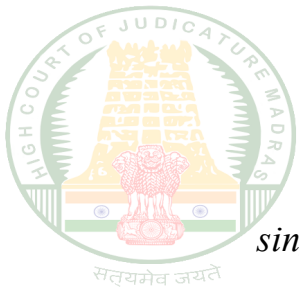
2600 to teach vocational education in various subjects so as to absorb the fully qualified double part time vocational instructors on regular basis with effect from the date of this order. These posts will be adjusted in the posts meant for vocational education as per government of India guidelines. Government also order to abolish 587 double part time teachers posts.

II. The incumbents of the posts will be eligible for D.A. And other allowances as admissible from time to time in addition to their pay.

III. The posts sanctioned in para 5 (i). above, either in Government or non-Government Higher Secondary Schools will be for a period of 3 years from the initial sanction.

6. The Director of School Education is requested to take immediate action to fill up the posts of the vocational instructors sanctioned in para 5(i). above and to abolish the double part time vocational teachers posts.

7. As regards the items in (b) and (d) in para 4 above, the Director of School Education is requested to formulate suitable training programme for the unqualified double part time and



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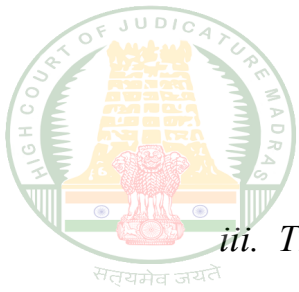
single part time vocational instructors and as regards item 3 ©

the Director of School Education is requested to send proposals with full details for appointing the qualified single part time vocational instructors as secondary grade teachers for approval immediately. ”

The above Government Order has stated that the posts sanctioned as per this Government Order would be for a period of 3 years from the initial sanction. However, a clarification has been issued in the subsequent Government Order in G.O. Ms. No. 1177, Education (HS3) Department, dated 01.12.1992 and the relevant paragraph of the above order is extracted as below:-

“3. Government after careful consideration accept the proposal of the Director of School Education. Accordingly the ban effected in the Government letter first read above be lifted with effect from the date of issue of this order. The Government also direct the Chief Educational Officer to permitted to fill up all the sanctioned vacant of part-time vocational instructions in the Higher Secondary Schools subject to the following conditions:

i. There should not be any extra financial commitment to Government in this regard. ii. The total number of sanctioned posts of part-time vocational instructors should not be exceeded.



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iii. *The permission now granted does not cover conversion of single part time instructors, after 23.10.89 the date on which the ban was imposed.*”

In pursuant to that, a similarly placed person has filed the writ petitions in W.P. Nos.18516 & 18517 of 2010 for claiming the approval of his vocational Teacher (Accountancy). This Court passes an order in the said writ petition on 24.10.2017 by following the earlier Division Bench judgment held in ***State of Tamil Nadu & Others -vs- The Correspondent, St.Joseph Malankara Shyrian Catholic Higher Secondary School*** [Order dated 31.07.2013 made in W.A. (MD) No. 652 of 2013]. The relevant paragraphs of the above judgment are extracted below:-

“12. A perusal of the documents shows that by G.O.Ms.No.991, Education Department, dated 16.07.1990, all the Chief Educational Officers were directed not to make any fresh appointment of part-time teachers (Vocational), without obtaining the prior permission of the Director of School Education. However, by G.O.Ms.No.1177, Education (HS3) Department, dated 01.12.1992, the Government lifted the ban on filling up of vacant posts of Part-time Vocational Instructors on conditions that there is no extra financial commitment to



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Government and that the total number of sanctioned posts of part-time Vocational Instructors should not be exceeded.

13. *In the case on hand, a bare perusal of the appointment orders of the writ petitioners dated 11.08.2004 and 02.06.2003 shows that they were appointed in retirement vacancies in sanctioned posts and the same was made obviously after passing of G.O.Ms.No.1177, Education (HS3) Department, dated 01.12.1992, lifting the ban on appointments, subject to certain conditions. That apart, it is not the plea of the respondent authorities that there is extra financial commitment to Government by virtue of the appointment of the writ petitioners and that the total number of sanctioned posts of part-time Vocational Instructors had exceeded. Admittedly, the petitioners have been appointed in retirement vacancies and, therefore, no extra financial commitment or increase in the sanctioned posts is made. The averment in the affidavit filed in support of the writ petition that the staff fixation order shows the said sanctioned posts is also not disputed by the respondent authorities in their counter affidavit or across the bar. Therefore, this plea of the learned Special Government Pleader appearing on behalf of the*



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respondent authorities cannot be countenanced.

WEB COPY 4. The next contention of the learned Special Government Pleader appearing on behalf of the respondent authorities that the posts are sanctioned only to the teachers and not to the fifth respondent/school and, therefore, once the teachers resign or retire or die or leave the school, the said post will be resumed to the respondent/department, also does not hold water in view of the decision of a Division Bench of this Court in ***The State of Tamil Nadu and others v. The Correspondent, St. Joseph's Malankara Shyrian Catholic Higher Secondary School***, [Judgment dated 31.7.2013 made in W.A.(MD) No.652 of 2013], wherein it was held as under:

“4. The issue as to whether a person appointed in a sanctioned post by a minority school can be denied approval of appointment was considered by a Division Bench of this Court in W.A (MD) No.16 of 2011, dated 25.1.2011, wherein in paragraph Nos.(3) to (5), it is held thus:

‘(3) Learned counsel appearing for the first respondent submits that one of the special



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teacher post (Sewing) became vacant and in the said vacancy, the first respondent was appointed from 15.7.2004 and she is serving in the second respondent school all these years. Learned counsel for the first respondent also submitted that the said sanctioned post is in existence and the appellants neither declared the said post as surplus nor resumed the post till date from the second respondent school. To prove the availability of the post, the staff fixation orders of the school is filed. The reason stated by the District Elementary Educational Officer for rejecting the request for approval was that there is reduction of student strength. The very same issue was considered by the Division Bench in W.A.No.1263 of 2001, by order dated 22.1.2004, wherein this Court has held that if a person is appointed in a sanctioned post, the approval cannot be rejected and if there is a fall in strength and the



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post become surplus after granting approval to the post, the said teacher along with the post could be transferred/deployed to a needy school. The same is the view taken by the learned Single Judge in this case by relying upon the various other judgments. (4) The learned counsel for the first respondent also submitted that an identical case was allowed by the learned Single Judge in W.P.No.7218 of 2008 by order dated 4.8.2009 and without filing an appeal against the said order, the said order was implemented by the very same second appellant in this appeal by order dated 18.9.2009. (5) The said fact is also not disputed by the learned Special Government Pleader appearing for the appellants.

5. Applying the said judgment to the facts of the present case, there is no error in the order passed by the learned Single Judge....”

15.In the case on hand, nowhere it has been stated by the



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respondent authorities that the sanctioned posts have been declared surplus or that the same have been resumed.

Therefore, the law enunciated in the decision cited supra squarely applies to the case on hand.

16.In the result:

(a) both the writ petitions are allowed and the impugned order passed by the 2nd respondent in Na.Ka.106533/V1/E3/2009, dated 22.12.2009, are set aside;

(b) a direction is issued to the respondents authorities to approve the appointment of the writ petitioners in the 5th respondent school from 11.08.2004 and 02.06.2003 respectively and to pay them salary and other benefits forthwith;

(c) such exercise shall be carried out by the respondents authorities within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.”



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WEB COPY **4.** Even in the instant case, the respondents at no point of time had rendered the post already sanctioned for the fourth respondent School. Similarly placed persons who have been frequently filing writ petitions and got the benefits under the same footing in the subsequent proceedings also. In such case, different yardstick cannot be adopted to the petitioner as in this case. The appointments of the petitioners should also be approved as how the benefit has been extended to the other petitioners. It is once again clarified that the ban imposed in the earlier Government Order in G.O.Ms.No.967, Education (HS.3) Department, dated 16.10.1992 has been lifted by issuance of the subsequent Government Order in G.O. Ms. No. 1177, Education (HS3) Department, dated 01.12.1992 . Hence, there is no hurdle for approving the appointment of the petitioners as requested by the fourth respondent School Management. Hence, I feel that a suitable direction should be given.

5. In view of the same, these writ petitions are allowed. The impugned orders are liable to be set aside. The second respondent is directed to reconsider the proposal sent by the fourth respondent School in this regard in the light of the above observations and the judicial pronouncement and pass orders granting approval within a period of four weeks from the date of receipt of a



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copy of this order. Consequently, the connected Miscellaneous Petitions are

WEB closed. No costs.

04.04.2025

Internet: Yes/No

Speaking /Non-speaking order

Maya

To

1. The Director of School Education
College Road, Chennai-600006.
2. The Chief Educational Officer
Chennai Chief Educational Office
Chennai District-600008.
3. The District Educational Officer
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Chennai District.



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R.N.MANJULA, J.

Maya

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