



W.P.Nos.17481 & 17482 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.17481 & 17482 of 2018 and
W.M.P.Nos.20757 & 20759 of 2018

W.P.No.17481 of 2018

S.Palaniappan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by Secretary to Government,
Education Department,
Fort St.George, Chennai 600 009.
- 2.The Director of School Education
(Higher Secondary),
College Road, Chennai 600 006.
- 3.The Chief Educational Officer,
Panagal Building,
Saidapet, Chennai 600 015.
- 4.The District Educational Officer,
Chennai North,
Egmore, Chennai 600 008.



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5.Sir M.Ct.Muthiah Chettiar,
Boys Higher Secondary School,
NO.23, Raja Annamalai Road,
Purasawalkam,
Chennai 600 084.
Rep. by Secretary School Committee.

6.G.Rajendran,
Office Assistant,
Sir M.Ct.Muthiah Chettiar
Boys Higher Secondary School,
No.23, Raja Annamalai Road,
Purasawalkam, Chennai 600 084.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the fifth respondent dated 09.05.2018 promoting the 6th respondent as Junior Assistant in Sir M.Ct.Muthiah Chettiar, Boys Higher Secondary School and quash the same and direct the respondents 1 to 4 to approve the petitioner's posting as Lab Assistant from 01.06.2009 and direct the fifth respondent to promote the petitioner as Junior Assistant in Sir M.Ct.Muthiah Chettiar, Boys Higher Secondary School.

W.P.No.17482 of 2018

P.Kirubanandan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by Secretary to Government,
Education Department,
Fort St.George, Chennai 600 009.



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2.The Director of School Education
(Higher Secondary),
College Road, Chennai 600 006.

3.The Chief Educational Officer,
Panagal Building,
Saidapet, Chennai 600 015.

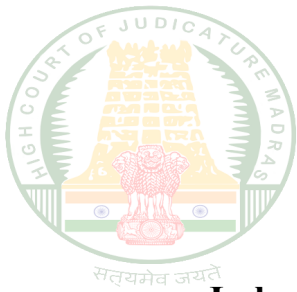
4.The District Educational Officer,
Chennai North,
Egmore, Chennai 600 008.

5.Sir M.Ct.Muthiah Chettiar,
Boys Higher Secondary School,
NO.23, Raja Annamalai Road,
Purasawalkam, Chennai 600 084.
Rep. by Secretary School Committee.

6.D.Ramachandran,
Library Attendant,
Sir M.Ct.Muthiah Chettiar
Boys Higher Secondary School,
No.23, Raja Annamalai Road,
Purasawalkam, Chennai 600 084.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the fifth respondent dated 09.05.2018 promoting the 6th respondent as Junior Assistant in Sir M.Ct.Muthiah Chettiar, Boys Higher Secondary School and quash the same and direct the respondents 1 to 4 to approve the petitioner's posting as Junior Assistant from 01.06.2009.



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In both W.Ps.

For Petitioner : Ms.V.S.Manimekalai

For Respondents : Mr.T.Chezhiyan, AGP for R1 to R4
Ms.Abitha Banu for R5

COMMON ORDER

These Writ Petitions have been filed to call for the records relating to the impugned order passed by the fifth respondent dated 09.05.2018 promoting the 6th respondent as Junior Assistant in the fifth respondent School and quash the same and direct the respondents 1 to 4 to approve the petitioners' posting as Lab Assistant and Junior Assistant respectively from 01.06.2009.

2. Heard Ms.V.S.Manimekalai, learned counsel for the petitioners, Mr.T.Chezhiyan, learned Additional Government Pleader for R1 to R4 and Ms.Abitha Banu, learned counsel for R5 in both Writ Petitions and perused the materials available on record.



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3. The petitioners were initially appointed as Office Assistant and Library Attender in the fifth respondent school and thereafter they were promoted as Lab Assistant and Junior Assistant respectively on 01.06.2009. The proposals sent by the fifth respondent School to the Government seeking approval of the said appointments were returned stating that those appointments can be made only subject to prior approval of the competent authority. As per the Government Order in G.O.Rt.No.64, Education Department dated 03.04.2018 the petitioners are entitled to seek approval for their respective posts from 01.06.2009 and further promotions.

4. The learned Additional Government Pleader for the respondents 1 to 4 submitted that the fifth respondent did not get approval from the Government for promoting the petitioners to the said posts. During the year 2001, the Government has passed a ban order for appointments except certain post of Teachers, Doctors and Police from 29.11.2001 vide G.O.(Ms).No.212, Personnel and Administrative Reforms (P) Department dated 29.11.2001. Subsequently, the Government has issued



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orders for lifting the ban in the Government departments *vide* its order dated 07.02.2006 through G.O.Ms.No.14, Personnel and Administration Reforms (P) Department. However, the Government has issued instructions not to fill up the vacancy for non-teaching posts in the Aided High and Higher Secondary Schools *vide* Government Letter No.11462/D2/2006, School Education Department, dated 26.05.2006.

4.1. The Government has constituted an Expert Committee to frame a guidelines and recommendations with regard to filling up of the vacancy sanctioned for non-teaching posts in the Aided Schools. The Government would take a final decision on the basis of the Committee's report whether to grant permission to fill the vacancy or not. Hence, the promotion of the petitioners could not be approved.

5. Obviously, when the petitioners were promoted as Record Clerk and Library Clerk on 01.02.2007, there was a ban for fresh appointments. However, the petitioners have been accommodated in the said posts and approval was granted. Only when the petitioners were promoted to the



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post of Lab Assistant and Junior Assistant, no approval was granted. The Government Order banning appointment has been issued as early as on 29.11.2001. So far, the petitioners have not challenged the above order preventing the recruitment.

6. The earnest submission of the learned counsel for the petitioners is that ban has been lifted by virtue of subsequent Government Order in G.O.Ms.No.64, School Education Department dated 03.04.2018 and hence, the petitioners' promotion can be given effect in the cadre of Lab Assistant and Junior Assistant atleast from 03.04.2018.

7. The learned counsel for the fifth respondent submitted that the petitioners have been subjected to disciplinary proceedings and that is also a reason for not considering the petitioners' appointment in the regular posts. She further submitted that the petitioners and similar others who had prayed similar relief have retired from service on 31.05.2024.



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8. Whatever may be the case, there is no order obtained by the petitioners to show that G.O.Ms.No.64, dated 03.04.2018 is applicable to their own facts of the case. The petitioners have filed these Writ Petitions without any basis and without ascertaining the factual position of the fifth respondent School which is the authority to fill up the vacancies at the relevant point of time. However the petitioners are at liberty to give a representation to the fifth respondent School in order to send their appointment proposal to the Government for approval atleast from the date when the ban for appointment was removed.

9. In the result, these Writ Petitions are disposed and the petitioners are at liberty to submit an application to the fifth respondent School to send their appointment proposal for approval to the Government atleast from the date when the ban for appointment was removed i.e., 03.04.2018, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said application, the fifth respondent shall consider the same and pass appropriate orders within a period of four weeks thereafter, on merits and in accordance with law and



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also subject to the outcome of the disciplinary proceedings now pending with the fifth respondent against these petitioners. No costs.

Consequently, connected miscellaneous petitions are closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

10.02.2025

To

1.The Secretary to Government,
Education Department,
Fort St.George,
Chennai 600 009.

2.The Director of School Education
(Higher Secondary),
College Road, Chennai 600 006.

3.The Chief Educational Officer,
Panagal Building,
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4.The District Educational Officer,
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5.The Secretary School Committee,
Sir M.Ct.Muthiah Chettiar
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