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W.P.No.31607 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.31607 of 2024

A.Charlet Grace Rebecca

... Petitioner

-Vs-

1. The Director of School Education,
DPI Campus, Chennai- 600 006.
2. The Chief Educational Officer,
Presidency Girls Higher Secondary School Campus,
Egmore, Chennai- 600 008.
3. The District Educational Officer,
Chennai North Educational District,
Villivakkam, Chennai-600 045.
4. The Correspondent,
Park Town Mission High School,
Chennai- 600 003.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of



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the third respondent in Na.Ka.No.5928/A4/2024 dated 14.08.2024 and quash the same and consequently direct the Respondents to grant approval to the Petitioner to the Post of B.T.Assistant (Mathematics) in the 4th Respondent school while taking into consideration the fact that the petitioner was appointed on 14.11.2016 and jointed the Post with effect from 16.11.2016 when the post of B.T.Assistant (Mathematics) was within the sanctioned strength with all consequential monetary and service benefits.

For Petitioner	: Mr.S.N.Ravichandran for Mr.C.Mahendran
For R1 to R3	: Mrs.S.Mythreye Chandru Special Government Pleader
For R4	: Mr.D.Maharaja

ORDER

This Writ Petition has been filed challenging the order dated 14.08.2024, passed by the third respondent, thereby rejecting the proposal for approval of appointment of the petitioner to the post of B.T.Assistant (Mathematics) in the 4th Respondent school from the date of her appointment dated 16.11.2016.

2. Heard the learned counsel on either side and perused the materials



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available on record.

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3. The petitioner had qualified with B.Sc (Mathematics) and B.Ed and eligible to be appointed as B.T.Assistant. While being so, the fourth respondent, which is an aided Religious Minority Institution selected the petitioner and appointed her to the post of B.T.Assistant (Mathematics) in the sanctioned post in the vacancy arose due to the retirement of an incumbent one A.Lakshmi on Voluntary Retirement Scheme on 31.10.2016. Subsequently, the fourth respondent submitted a proposal for the petitioner's appointment. However, it was rejected, on the ground that the post of B.T.Assistant (Mathematics) was surplus during the academic year 2016 to 2017 and further, stating that the petitioner had failed to qualify the Teacher Eligibility Test.

4. The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that there was surplus in the post of B.T.Assistant during the academic year 2016 to 2017. Therefore, the appointment of the petitioner cannot



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be approved, since she was appointed in the surplus post.

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5. A perusal of records reveals that there was two B.T.Assistants, in which one was surplus. However, there is no evidence to show that the post of B.T Assistant in Mathematics was surplus during year 2016 to 2017.

6. The learned counsel for the petitioner pointed out that there was surplus in the post of B.T.Assistant (Social Science). The petitioner was posted as B.T.Assistant (Mathematics). Without a Mathematics Teacher, the School cannot run and as such, there was no surplus in the post of B.T.Assistant (Mathematics). He further submitted that the impugned order was also rejected by stating that the petitioner had failed to qualify the Teacher Eligibility Test.

7. Both issues have now been settled by this Court in ***W.P.No.32316 of 2023 dated 01.03.2024***, wherein this Court held as follows:-

“ 7. On perusal of the G.O.Ms.No.165 dated 17.09.2019 it is perspective in nature and as such those who were prior to the said Government order is not applicable. That apart, the same was declared



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by the Hon'ble Division Bench of this Court at Madurai Bench of this Court would inoperative. This Court held in W.P.No.17909 of 2023 etc., cases by an order dated 15.09.2023 as follows:

"6. It is relevant to note that while setting aside the order dated 07.01.2020 passed by the 3rd respondent rejecting the proposal seeking approval of appointment of the petitioner, this Court in W.P.No.3439 of 2020 dated 18.04.2022, in Para 10 has held as under:-

10. Having regard to the rival submissions of the parties, taking note of the judgment passed by the Division Bench of this Court in a Batch of Writ Appeals in W.A.(MD).No.76 of 2019 etc., G.O.Ms.No.165 issued by the School Education Department, dated 17.09.2019 will not prohibit the educational authorities to approve the appointment made by the School Management in the instant writ petitions since the proposals for approval of appointment made by the School Management were forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.09.2019. Therefore, this Court is of the view that the respondent department without considering the G.O.Ms.No.165 dated 17.09.2019 in proper perspective and passed the impugned order rejecting the proposals submitted by the School Management. Therefore, the impugned orders passed by the respondent department are liable to be quashed."

7. In the earlier round of litigation, proposal was rejecting citing that G.O.Ms.No.165 dated 17.09.2019 was operating in the field. It is to be noted that this Court in its order has clearly held that G.O.Ms.No.165 dated 17.09.2019 would not be a bar to the case of the petitioner and it would not be applicable to the teachers who were



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appointed prior to the Government Order in G.O.Ms.No.165 dated 17.09.2019. Still the impugned order came to be passed on the ground that surplus teachers.

8. It is relevant to note that the very issue was whether G.O.Ms.No.165 dated 17.09.2019 was applicable to the petitioner case or not? This court has categorically stated that G.O.Ms.No.165 dated 17.09.2019 was only prospective in nature and approval have to be given in the cases where appointment of teachers were made prior to the said Government Order. Having non-suited the petitioner in the earlier round of litigation citing G.O.Ms.No.165, now the impugned order has been passed on a different ground. The authorities cannot take different stand at different points of time to stick on their stand so as to negate the claim of the petitioner. Be that as it may, the impugned order came to be passed not on merits but the proposal was rejected merely on the ground that there are surplus teachers.

9. In the light of the above discussion and the factual matrix of the case, the impugned order is set aside and the matter is remitted back to the 3rd respondent for considering the proposal afresh and passing orders granting approval as sought by the school management, provided it satisfies all the norms prescribed for such appointment and the rules. While passing orders of the proposal, the 3rd respondent shall keep in mind the directions given by this Court in W.P.No.3439 of 2020 dated 18.04.2022. If the authority concerned wants to raise any further query or make clarification, the same may be had from the school management. The said exercise shall be completed within a period of twelve weeks from the date of receipt of copy of this order.""



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8. Admittedly, the petitioner was appointed in the sanctioned post in the regular vacancy on 14.11.2016. G.O.No.165 dated 17.09.2019 came into force after the appointment of the petitioner. Therefore, it would not be a bar for the respondents to appoint the petitioner. Further, the said Government Order is only prospective in nature and that apart, the said Government Order itself has become inoperative, since it was declared as unconstitutional by this Court.

9. Insofar as the eligibility is concerned, with regard to Teacher Eligibility Test, admittedly, the fourth respondent is an aided Minority Institution and as such, the qualification of Teacher Eligibility Test does not require. Even assuming that the post of BT Assistant (Mathematics) was surplus at the time of appointing the petitioner on 14.11.2016 in the fourth respondent School, her appointment has to be approved, since G.O.No.165 has been passed after her appointment. If the post of the petitioner is found to be surplus, she can be transferred to the vacant place.



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10. In view of the above, the impugned order cannot be sustained and is liable to be quashed. Accordingly, the order passed by the third respondent in Na.Ka.No.5928/A4/2024 dated 14.08.2024, is hereby quashed. The third respondent is directed to approve the appointment of the petitioner in the post of B.T.Assistant (Mathematics) with effect from 16.11.2016, within a period of four weeks from the date of receipt of a copy of this order with all attendant benefits including arrears of salary and allowance.

11. Accordingly, this writ petition stands allowed. No costs.

20.11.2025

Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order

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- To
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 2. The Chief Educational Officer,
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G.K.ILANTHIRAIYAN. J.

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