



W.A.No.43 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **R.SUBRAMANIAN**
AND
THE HONOURABLE MR. JUSTICE **G. ARUL MURUGAN**

Writ Appeal No.43 of 2025
and
C.M.P.No.297 of 2025

1. The Government of Tamilnadu,
Represented by its Secretary to Government,
Higher Education Department,
Fort St.George, Chennai - 600 009.
2. The Joint Director of Collegiate Education,
College Road, Nungambakkam, Chennai - 600 006.

... Appellants/
Respondent Nos. 1 and 2

Vs.

1. C.Ilayaraja
2. The Secretary,
Tranquebar Bishop Manikkam,
Lutheran College (TBML College),
Porayar, Nagapattinam - 609 307.

... Respondent/
Petitioner

... Respondent/
Respondent No.3



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PRAYER: The Writ Petition is filed under Clause 15 of the Letters Patent against the order dated 11.09.2023 made in W.P.No.2530 of 2015 passed by this Court.

For Appellant : Mr.D. Ravichander
Special Government Pleader

For Respondent : Mr. Maria Joseph David
No.1

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JUDGMENT

*(Judgment of the Court was delivered by **R. SUBRAMANIAN, J.**)*

The State is aggrieved by the grant of prayer of the respondent to designate him as Mechanic Grade-II from the date of his initial appointment namely, 26.11.2007 with all attendant benefits.

2. The first respondent was appointed as a Junior Mechanic in the second respondent College on 26.11.2007 in the place of one A.Sargunam, who retired. The College sought for an approval of the appointment. By order dated 08.09.2009, the Government rejected approval on the ground that there was no post of Junior Mechanic and



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that by G.O.(1D) No.135, dated 12.06.2009, the post of Mechanic in all the Government Aided Colleges was abolished by the Government. This order dated 08.09.2009 was put under challenge in W.P.No.9398 of 2010. This Court allowed the Writ Petition on 25.11.2010. The said order has become final. Pursuant to the said order, on 03.04.2012, the Government granted approval for the appointment of the first respondent as Junior Mechanic with retrospective effect from 26.11.2007. Subsequently, on 26.06.2014, the Government passed G.O.Ms.No.170, Finance (CMPC) Department treating the post of Mechanic Grade-I in Collegiate Education equal to that of Training Instructor in School Education Department and put them on a time scale of pay.

3. The issue of re-designation came up before the Madurai Bench of this Court in W.P. (MD) Nos.3931 to 3941 etc. batch of 2005 and by order dated 18.07.2006, this Court directed that the petitioners before the Madurai Bench numbering about 17 are entitled to the benefit of G.O.MS.No.186, Higher Education Department, dated 07.05.2004 and directed the Government to re-designate them as Mechanic Grade-I. Pursuant to this order, the Government passed G.O.(Ms) No.98, Higher Education (D1) Department, dated 30.04.2007 re-designated 17 persons,



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who were appointed as Mechanic Grade-I and granted them a revised scale of pay with subsequent increments. The petitioner also sought for similar relief in the Writ Petition.

4. The claim of the petitioner was opposed on the ground that the very initial posting of the petitioner as a Junior Mechanic was irregular and only post that is available is Mechanic and not Junior Mechanic. It is also contended that the order approving the appointment in the post of Junior Mechanic was made under threat of Contempt and therefore, the Court should ignore the said order. The learned single Judge found that the petitioner was actually appointed as Mechanic on 26.11.2007. Though he was designated as Junior Mechanic, his appointment was approved by the Government on 03.04.2012 with effect from 26.11.2007. The Writ Court also found that similarly placed persons have been granted the benefits. On the above findings, the Writ Court allowed the Writ Petition.

5. We have heard Mr.D.Ravichander, learned Special Government Pleader appearing for the appellant and Mr.Maria Joseph David, learned counsel appearing for the first respondent.



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WEB COPY 6. Mr.D.Ravichander, learned Special Government Pleader, would contend that the initial appointment itself was irregular and the petitioner cannot claim to be treated as Mechanic Grade-I and cannot be put into time scale of pay. He would also contend that the order dated 03.04.2012 was made under threat of Contempt and it has to be ignored.

7. We are unable to accept the contention of the learned Special Government Pleader.

8. The second respondent College has appointed the petitioner to the post of Junior Mechanic. The approval sought for was rejected by the Government. Thereafter, the first respondent moved this Court in W.P.No.9398 of 2010, which was allowed on 25.11.2010 directing the Government to consider the claim for approval since the original rejection was on the ground that the post itself was abolished under G.O.(1D) No.135, dated 12.06.2009.



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9. Upon reconsideration, the Government accepted the recommendation from the Director of Collegiate Education and decided to approve the appointment. Therefore, the Government cannot now be heard to contend that there was no sanctioned post and approval will be of no effect. In fact, there are subsequent proceedings in the year 2014, wherein the posts of Mechanic in the Aided Colleges were treated on par with the posts of Training Instructor in the School Education Department and persons working as Mechanic Grade-I in the Collegiate Education Department were treated on par with the Training Instructors in School Education Department and they were brought into time scale of pay. The petitioner would be at least entitled to the benefits of the Government Order in G.O.Ms.No.170, Finance (CMPC) Department. The abolition of the post of Mechanic in the year 2009, by the Government Order in G.O.(1D) No.135, dated 12.06.2009 cannot have an impact on the appointment of the petitioner since the petitioner was appointed even prior to the issuance of the said Government Order. Once this Court directed approval to be granted and the Government had also accepted the same, the Government cannot be heard to contend that the order of approval was passed under threat of contempt.



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WEB COPY 10. Hence, we see no merits in the Writ Appeal and accordingly, the same is dismissed. The appellants are granted eight (8) weeks time to comply with the order passed by the learned single Judge in W.P.No.2530 of 2015, dated 11.09.2023. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.M, J.) (G.A.M, J.)
21.03.2025

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and
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