



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 17.02.2025

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

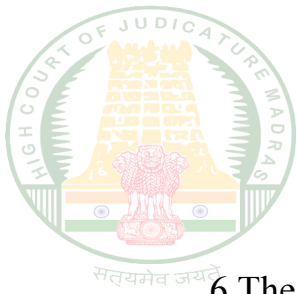
W.P.No.5201 of 2025

1.J.Arumugam
2.A.Venkatesan

.. Petitioners

Vs.

- 1.The State of Tamil Nadu
Rep. by its Principal Secretary to Government,
School Education Department,
Fort St. George, Chennai – 600 009.
- 2.The Commissioner of School Education,
Directorate of School Education,
DPI Campus, College Road,
Chennai – 600 006.
- 3.The Joint Director of School Education (Personnel)
DPI Campus, College Road,
Chennai – 600 006.
- 4.The Director of School Education,
Directorate of School Education,
DPI Campus, College Road,
Chennai – 600 006.
- 5.Teachers Recruitment Board (TRB)
Rep. by its Member Secretary,
4th Floor, DPI Campus,
College Road, Chennai – 600 006.



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6. The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Maligai,
College Road,
Chennai – 600 006.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to appoint the petitioners as Teachers (Secondary Grade / B.T. assistants as the case may be) who have completed certificate verification in the year 2014, recruitment being made based on TET marks and TET passed seniority without resorting to any competitive examination as stated in G.O. Ms. No.149 dated 20.07.2018.

For Petitioner	.. Mr.V.Balasubramani
For R1 to R4	.. Mrs.Mythrae Chandru, Additional Government Pleader
For R5 and R6	.. Mr.C.Kathiravan

ORDER

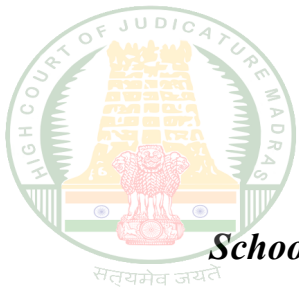
This Writ Petition has been filed in the nature of a Mandamus seeking a direction to the 1st respondent to appoint the petitioners as teachers (Secondary Grade B.T.Assistant) since it is contended that they had



completed certificate verification in the year 2014 and recruitment had been made on the basis of TET marks. It had been stated that reliance must be placed on G.O.Ms.No.149 dated 20.07.2018.

2.In the affidavit filed in support of the writ petition, it had been stated that the petitioners had completed their Under Graduate and cleared National Eligibility Test for Lecturership held by the University Grants Commission. They had also completed their Doctorate of Philosophy. It had also been stated that Teachers Recruitment Board had conducted their Third Eligibility Test on 17.08.2013 and 18.08.2013. The petitioners claimed that they had passed the said test. It had also been stated that though they had completed their TET as required, they had not been appointed to the post of Secondary Grade / B.T.Assistants. It is under those circumstances that the writ petitioners had joined together in filing this present writ petition.

3.The learned counsel for the petitioners did not advance any separate argument, but only based the claim of the petitioners on the order of a Division Bench of this Court dated **10.07.2024 in W.P.No.26084 of 2023 and batch, M.Parvatham Vs. The Principal Secretary to Government,**



School Education Department, Chennai. But however, a perusal of the said order also shows that the Division Bench had been very cautious of fence-sitters.

4. The Division Bench had very specifically stated as follows:

35.*The relief claimed in these writ petitions is therefore restricted to these petitioners alone. It is also made clear that citing this judgment, fence-sitters will not be entitled to similar relief by filing fresh writ petitions. In State of Uttar Pradesh & Ors. Vs. Arvind Kumar Srivastava & Ors. [2014 (12) SCR 193], it was held as follows:*

"23. The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time



postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

(3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation



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can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see K.C. Sharma & Ors. v. Union of India (supra). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence."

24. Viewed from this angle, in the present case, we find that the selection process took place in the year 1986. Appointment orders were issued in the year 1987, but were also cancelled vide orders dated June 22, 1987. The respondents before us did not challenge these cancellation orders till the year 1996, i.e. for a period of 9 years. It means that they had accepted the cancellation of their appointments. They woke up in the year 1996 only after finding that some other persons whose appointment orders were also cancelled got the relief. By that time, nine years had passed. The earlier judgment had granted the relief to the parties before the



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Court. It would also be pertinent to highlight that these respondents have not joined the service nor working like the employees who succeeded in earlier case before the Tribunal. As of today, 27 years have passed after the issuance of cancellation orders. Therefore, not only there was unexplained delay and laches in filing the claim petition after period of 9 years, it would be totally unjust to direct the appointment to give them the appointment as of today, i.e. after a period of 27 years when most of these respondents would be almost 50 years of age or above. For all the foregoing reasons, we allow the appeal and set aside the order of the High Court as well as that of the Tribunal. There shall, however, be no order as to costs."

36. In view of the above discussion and findings, we are of the considered opinion that the writ petitioners are entitled to the reliefs sought herein. However, as stated earlier, this order is only restricted to these petitioners alone.

5. It had also been held as follows in paragraph 38:

"38.As these writ petitions were filed well before the recruitment notification dated 25.10.2023, number of vacancies already advertised in the said recruitment



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notification or the present number of vacancies shall not be cited as a reason for not giving effect to the direction stated above.”

6.It is thus seen that the ratio laid down by the Division Bench, has to be followed by this Court and the petitioners stand ineligible to be considered. As a matter of fact, a learned Single Judge of this Court had also placed reliance on the aforementioned ratio as cited by this Court and had dismissed a similarly filed writ petition in ***W.P.No.32557 of 2023, S.Sudha Vs. the Principal Secretary to Government, School Education Department, Chennai, dated 23.10.2024.***

7.In view of the aforementioned reasons, this Writ Petition stands dismissed. No costs.

17.02.2025

Index:Yes/No
Internet:Yes/No
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To
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C.V.KARTHIKEYAN,J.

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