



W.A(MD) No.252 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.08.2025

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A(MD) No.252 of 2020
and
C.M.P.(MD)No.1683 of 2020

The Commissioner of Technical Education,
Guindy, Chennai-600 025.

... Appellant / Respondent

Vs.

1.S.Paramasivam

... Respondent / Petitioner

2.The Principal,
Sankar Insitute of Polytechnic,
Sankar Nagar & Post,
Tirunelveli District.

... Respondent / Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to allow the writ appeal and set aside the order dated 16.11.2018 made in W.P.(MD)No.848 of 2015 on the file of this Court.

For Appellants : Mr.Ajmalkhan
Additional Advocate General
assisted by Mr.C.Venkatesh Kumar
Special Government Pleader



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For Respondents : Mr.E.V.N.Siva
for R1
: No appearance for R2

JUDGMENT

(Judgment of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard the learned Additional Advocate General appearing for the appellant and the learned counsel appearing for the petitioner.

2. The writ petitioner was appointed as Lab Attender by the second respondent Institution with effect from 21.04.2001. The proposal was submitted to the Commissioner of Technical Education, Guindy, Chennai / appellant herein for approval of the appointment. The appellant declined to grant approval vide proceedings dated 01.03.2014. Challenging the same, W.P.(MD)No.848 of 2015 was filed. The learned single Judge vide order dated 16.11.2018 quashed the order impugned in the writ petition and allowed the writ petition. Aggrieved by the same, this appeal has been filed.



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3. The qualification prescribed for the said post is set out in the Special Rules for Tamil Nadu Technical Educational Subordinate Service. It is seen therefrom that the eligible qualification has been prescribed as “Pass in VIII standard” in a recognised school and practical experience for a period of not less than two years in a workshop. Even though the writ petitioner did possess the said qualification, the authority could not grant approval in view of G.O.(Ms).No.1160, Education Department, dated 27.06.1988. Vide the said G.O, the qualification was revised as “SSLC passed and ITI/NTC /NAC ”.

4. The learned Additional Advocate General would point out that the writ petitioner did not possess ITI / NTC/NAC. He also would add that following the issuance of G.O.(Ms).No.1160, dated 27.06.1988, the aided institutions all over Tamil Nadu have been appointing only those candidates as Lab Attendants who possessed the revised educational qualification.

5. We are not in a position to accept the aforesaid contention advanced by the learned Additional Advocate General. This is for the



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simple reason that the Special Rules were framed in exercise of powers conferred by proviso to Article 309 of the Constitution of India. However, G.O.Ms.No.1160, Education Department dated 27.06.1988 was not issued under Article 309 of the Constitution of India but only under Article 162 of the Constitution of India. Such a GO cannot have the effect of the Special Rules. Even though in Paragraph No.4 of the said G.O, it is stated that the revised qualifications will take effect from the date of G.O, the giveaway is in Paragraph No.5. It reads as follows:-

“5. The Director of Technical Education is requested to send necessary draft amendments to the Special Rules for Tamil Nadu Technical Educational Subordinate Service in due course prescribing the revised qualifications given in the annexure and also suggesting saving clauses as ordered in Para 4.”

That is why, probably realizing this, a formal amendment was made in the year 2009 vide G.O.(Ms).No.220, Higher Education Department(C2), dated 06.07.2009. The revised qualification contemplated by G.O. (Ms).No.1160 dated 27.06.1988 was incorporated in the amendment made in the year 2009. Paragraph No.2 of the said GO reads that the Rules would come into force with effect from 06.07.2009. G.O.Ms.No. 220, dated 06.07.2009 was issued under the proviso to Article 309 of the



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Constitution of India. If really, amendment to the Special Rules have been made in the year 1988 itself, there was no need for issuing a fresh amendment in the year 2009. It is also relevant to note that the writ petitioner was sponsored by the District Employment Exchange. If the writ petitioner was not qualified for the post, he would not have been so sponsored. We therefore hold that the learned single Judge was right in holding that the writ petitioner did possess the requisite qualification when he was appointed to the post of Lab Attender. Interference with the order of the learned single Judge is not called for. The Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (K.R.S., J.)
20.08.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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