



W.A(MD)No.1559 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.06.2025

CORAM

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

**W.A(MD)No.1559 of 2025
and
C.M.P(MD)No.8874 of 2025**

- 1.The State represented by
The Secretary,
Department of Higher Education,
Fort St.George,
Chennai – 600 009.
- 2.The Director of Collegiate Education,
College Road,
Chennai – 600 006.
- 3.The Joint Director of Collegiate Education,
Madurai Region,
Palam Station Road,
Madurai – 625 002.

... Appellants /
Respondents

Vs.

- 1.S.Maheswari
- 2.The Secretary,
Sree Sevugan Annamalai College,

... 1st Respondent /
Writ Petitioner



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Devakottai – 630 303,
Sivagangai District.



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... 2nd Respondent /
4th Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the judgment dated 08.12.2023 in W.P(MD)No.29116 of 2023 on the file of this Court.

For Appellants : Mr.C.Venkatesh Kumar
Special Government Pleader

For Respondents : Mr.E.V.N.Siva for R.1

JUDGMENT

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

Heard both sides.

2.The writ petitioner was working as Laboratory Assistant in the second respondent college. Vacancy arose in the post of Typist. The post of Typist and the post of Laboratory Assistant are in the same scale of pay. When vacancy arose in the post of Typist, the Management appointed the writ petitioner in the post by way of transfer of service. When proposal was submitted to the competent authority for approval, approval was declined. Challenging the same, the first respondent filed W.P(MD)No.29116 of 2023. The learned single



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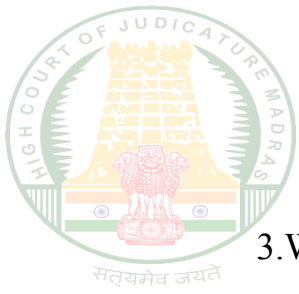
Judge vide order dated 08.12.2023 allowed the Writ Petition in the following

WEB COPY terms:

“3. The said issue which arises in the writ petition is already covered by the Hon'ble Division Bench judgment of this Court in W.A(MD)Nos.114 and 9 of 2020, dated 25.03.2021 [The State of Tamil Nadu, Represented by its Secretary and Others Vs. The Secretary, Fatima College (Autonomous), Mary Land, Madurai-625 018]. The order of the Hon'ble Division Bench of this Court has been complied with by the Director of Collegiate Education by his proceedings, dated 04.08.2021. The learned Single Judge of this Court in a batch of writ petitions in W.P(MD)Nos.1712 of 2015 etc., dated 14.06.2023 [C.Thavamani Vs. The Director of Collegiate Education and Others] has followed the Hon'ble Division Bench judgment of this Court. Therefore, it is clear that there is no bar for promoting a Lab Assistant as a Typist.

4. In view of the above said facts, the order impugned in the writ petition is set aside. The matter is remitted back to the file of the third respondent to pass fresh orders in accordance with the Hon'ble Division Bench judgment of this Court in W.A(MD)Nos.114 and 9 of 2020 within a period of eight (8) weeks from the date of receipt of a copy of this order.”

Challenging the same, this Appeal has been filed.



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3. When the matter was taken up for hearing, the learned counsel for the writ petitioner submitted that the very same view has been taken by another Division Bench in W.A(MD)No.589 of 2025 (The Regional Joint Director of Collegiate Education, Madurai Region, Madurai Vs R.Udhayakumar & Another) on 18.03.2025. Paragraphs 12 and 13 of the said order read as follows:

“12. When Rule 11(4)(i) and (ii) of the Tamil Nadu Private College Regulation Rules states that the private aided college shall promote from available persons in the college (inhouse candidate), if not available then only by recruitment from outside. And when the Rule 3(g) (i) to (ix) of Tamil Nadu Ministerial Service Rules states recruitment by transfer. Then both the rules read together, the private colleges are entitled to recruitment by transfer from Lab Assistant to Junior Assistant. As rightly pointed out by the writ petitioner when the salary for both the post is same, then the government will not have any monetary loss.

13. It is seen, the Government has passed the G.O.Ms.No.11 Education Department dated 04.01.1989 granting permission to the private colleges to fill the post of Junior Assistant from the persons holding the post of Record Clerk, Library Attendants, Laboratory Assistants and similar posts irrespective of scale of salary. The relevant portion of the said G.O.Ms.No.11 is extracted hereunder:



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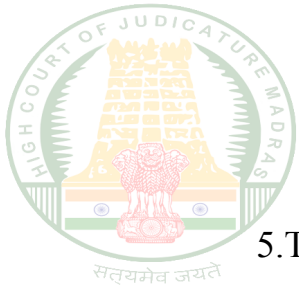


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“3. Accordingly, the Government direct that irrespective of the scales of pay the posts of Junior Assistant in a private college shall be filled up from the persons working in the categories of Record Clerk, Library Attenders, Laboratory Assistants, Museum Keepers, Herberium Keepers and Mechanics and posts in similar time scales of pay in the same college ne considered on the seniority basis as per Rule 4 (i) of the Tamil Nadu Private Colleges (Regulations) Rules, 1979 as amended.”

When the aforesaid G.O. clearly states that irrespective of scale of pay the Junior Assistant post shall be filled by the aided private colleges from the post of Laboratory Assistant, then the contention of the appellant is totally against the said G.O.Ms.No.11. It is not the case of the appellant that the said G.O. was withdrawn or not in force or not applicable. Therefore, this Court is of the considered opinion irrespective of equal pay scale or lower pay scale the Junior Assistant post shall be filled up from the persons holding the post of Record Clerk, Library Attenders, Laboratory Assistants. It is seen that from G.O.Ms.No.114 Higher Education Department dated 28.06.2012 the post namely Museum Keepers, Herberium Keepers, Mechanics are not granted to any colleges and hence the said posts cannot be granted after 28.06.2012.”

4. Though we do have some reservations on this issue, since there is no monetary loss to the Government and two coordinate benches have taken a view in favour of the writ petitioner, we do not propose to deviate. We therefore sustain the impugned order.



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5.This Writ Appeal stands dismissed. There shall be no order as to costs.

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Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [K.R.S., J.]
19.06.2025

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

To

The Secretary,
Sree Sevugan Annamalai College,
Devakottai – 630 303,
Sivagangai District.



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G.R.SWAMINATHAN, J

and

K.RAJASEKAR, J.

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