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W.A.(MD)NO.870 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)Nos.870 & 1075 of 2024 & 1736 of 2025
AND C.M.P.(MD)Nos.6440 & 8067 of 2024 & 9687 of 2025

W.A.(MD)NO.870 of 2024

1. C.Vinod Kumar
2. P.Mangaleswari

... Appellants /
Petitioners 4 & 5

Vs.

1. M.Kandasamy ... 1st Respondent / Writ petitioner
2. The Director of Collegiate Education,
DPI Campus,
College Road,
Chennai – 600 006.
3. The Joint Director of Collegiate Education,
Madurai Region,
Palam Station Road,
Madurai – 625 002,
Madurai District.
4. The Secretary,
Ayya Nadar Janaki Ammal College,
Sivakasi – 626 124,
Virudhunagar District. ... Respondents 2 to 4 /
Respondents 1 to 3



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Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to allow the writ appeal and set aside the order of the learned Judge of this Court in W.P.(MD)No.18452 of 2020 on the file of this Court.

For Appellant : Mr.S.Anwar Sameem

For R-2 & R-3 : Mr.C.Venkatesh Kumar,
Special Government Pleader.

For R-1 : Mr.E.V.N.Siva

For R-4 : Mr.N.Dilipkumar,
for Mr.E.Martin Jeyakumar.

* * *

W.A.(MD)No.1075 of 2024

The Secretary,

Ayya Nadar Janaki Ammal College,

Sivakasi – 626 124,

Virudhunagar District.

... Appellant /3rd Respondent

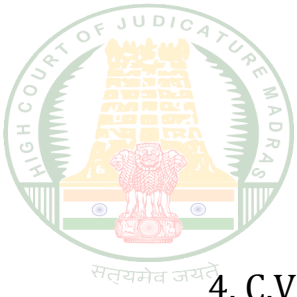
Vs.

1. M.Kandasamy

... 1st Respondent / Writ petitioner

2. The Director of Collegiate Education,
DPI Campus, College Road,
Chennai – 600 006.

3. The Joint Director of Collegiate Education,
Madurai Region,
Palam Station Road,
Madurai – 625 002.



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W.A.(MD)NO.870 OF 2024

4. C.Vinod Kumar

5. P.Mangaleswari

... Respondents 2 to 5 /
Respondents 1, 2,4 & 5

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P.(MD)No.18452 of 2020 dated 27.02.2024 on the file of this Court and allow the above writ appeal with costs.

For Appellant : Mr.N.Dilipkumar,
for Mr.E.Martin Jeyakumar.

For R-2 & R-3 : Mr.C.Venkatesh Kumar,
Special Government Pleader.

For R-1 : Mr.E.V.N.Siva

For R-4 : Mr.S.Anwar Sameem

* * *

W.A.(MD)No.1736 of 2025

1. The Director of Collegiate Education,
DPI Campus, College Road,
Chennai – 600 006.

2. The Joint Director of Collegiate Education,
Madurai Region,
Palam Station Road,
Madurai – 625 002.

... Appellants /Respondents 1 & 2

Vs.

1. M.Kandasamy

... 1st Respondent / Writ petitioner



2. The Secretary,
Ayya Nadar Janaki Ammal College,
Sivakasi – 626 124,
Virudhunagar District.

3. C.Vinod Kumar

4. P.Mangaleswari

... Respondents 2 to 4 /
Respondents 3 to 5

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed by this Court in W.P.(MD)No.18452 of 2020 dated 27.02.2024.

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

For R-2 : Mr.N.Dilipkumar,
for Mr.E.Martin Jeyakumar.

For R-1 : Mr.E.V.N.Siva

For R-3 & R-4 : Mr.S.Anwar Sameem

* * *

COMMON JUDGMENT

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. Ayya Nadar Janakiammal College, Sivakasi is an aided private college. Two vacancies in the post of Junior Assistant arose. The



management resorted to direct recruitment and appointed one Vinod Kumar and Mangaleswari vide order dated 17.05.2018 and 25.07.2018. These appointments were assailed by one Kandasamy in W.P.(MD)No.18452 of 2020. The learned single Judge allowed the writ petition vide order dated 27.02.2024 in the following terms:-

“10. From the perusal of the said orders, it appears that the approving authority, who approved the appointments of Respondents No.4 and 5 has totally acted in ignorance of the Government Order in G.O.Ms.No. 11, dated 04.01.1989 and therefore, the same also are liable to be declared as invalid. No doubt, there is no challenge to the orders of approval issued by the Joint Director, but as this Court has already come to the conclusion that the very appointment of Respondents No.4 and 5 to the post of Junior Assistant directly is contrary to the Government Order and illegal, the consequent approval also does not stand.

11. Further, the very same issue has also come up for consideration before this Court in W.P.(MD) Nos.1712 of 2015 and batch and a learned Single Judge of this Court by order dated 14.06.2023 has considered the same and held as under:



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“10. Moreover, it is seen that the persons working in Lab Assistants, Record Clerk and Library Assistants cannot have any further promotion from the said post. Therefore, if they are transferred to the post as Junior Assistant / Typist or Store Keeper, they can be promoted further to the post of Assistant and Superintendent. If the private Schools and Colleges are following this, there will not be any loss to the Government. If such approval is not granted, then the private Schools or Colleges would indulge in fresh recruitments to the post of Junior Assistant and Lab Assistant, whereby the government would incur financial burden. Hence, both the Colleges as well as the Government are benefitted by such promotion. The Government is not incurring any extra financial burden by granting such promotion. The only objection by the respondents is that they carry equal pay and they are considered on par, hence they cannot be promoted. This Court is of the considered opinion that this plea is hyper technical. If the same cannot be considered promotion, they can be considered as transfer to another post. The respondent further submitted that the Library Assistant post comes under teaching staff whereas the Junior Assistant post comes under non-teaching staff. This is also



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hyper technical objection. As rightly pointed out by the Learned Counsel appearing for the petitioner that if transferred to Junior Assistant post the petitioner would get an opportunity to be promoted as Assistant and Superintendent. Also, the government would not incur any loss because of such transfer to Junior Assistant post, since Lab Assistant / Library Assistant / Junior Assistant carry same scale of pay.”

12. In the light of the above, this Court has no hesitation to declare that the action of the 3rd respondent in appointing Respondents No.4 and 5 to the post of Junior Assistant directly through the impugned order is illegal and arbitrary and accordingly, the impugned proceedings dated 17.05.2018 and 25.07.2018 are set aside and the 3rd respondent is further directed to fill up the vacancies of Junior Assistant in terms of G.O.Ms. No.11, Education Department, dated 04.01.1989.”

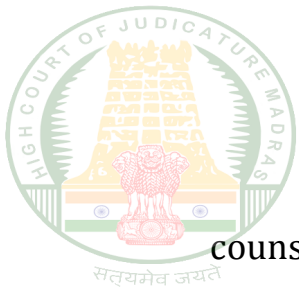
Aggrieved by the same, the college management as well as the department have filed these writ appeals.

3. The learned counsel appearing for the appellants reiterated all the contentions set out in the grounds of appeals and called upon



this Court to set aside the order of the learned single Judge and allow the writ appeals as prayed for.

4. Per contra, the learned counsel appearing for the writ petitioner submitted that the learned single Judge had only followed the earlier precedents laid down by this Court. He pointed out that the writ petitioner Kandasamy was holding the post of Lab Assistant. The pay scale of the Lab Assistant and the pay scale of the Junior Assistant are one and the same. However, in view of G.O.Ms.No.11 Education Department dated 04.01.1989, the management is obliged to fill up the vacancies in the post of Junior Assistant only from certain posts including Lab Assistant. He added that the post of Lab Assistant has no promotional avenue and only if the Lab Assistant is appointed as Junior Assistant by way of transfer, he will have further promotional avenues. In support of his contention, he relied on the order dated **25.03.2021** in ***W.A.(MD)Nos.114 and 9 of 2020 (The State of Tamil Nadu Vs. The Secretary, Fatima College(Autonomous) Madurai)*** and the order dated **18.02.2025** in ***W.A.(MD)No.224 of 2025 (The Director of Collegiate Education, Chennai Vs. Poogundran)***. Rebutting the contention of the learned



counsel for the appellants, the writ petitioner submitted that the writ petitioner cannot be accused of delay. He also contested the claim of the appellants that the writ petitioner lacks the requisite *locus standi*. Even while conceding that they are having Selection Grade in the post of Lab Assistant, he pointed out that his only prayer is for directing the management to follow G.O.Ms.No.11 Education Department dated 04.01.1989 and nothing else. He submitted that if the writ petitioner's seniors forego their claim for being appointed as Junior Assistants by way of transfer, in the very nature of things, his turn would come and therefore, he is very much having the *locus standi*. He wants this Court to sustain the order of the learned single Judge and dismiss the writ appeals.

5. We carefully considered the rival contentions and went through the materials on record.

6. As already noted that the management appointed Vinod Kumar and Mangaleswari in May 2018 and July 2018 respectively. It is not as if the management had acted in an arbitrary manner. Earlier when one Veera Pandian who was working as Lab Assistant was



appointed to the post of Junior Assistant, the Department declined to approve the proposal. The management therefore decided to going for direct recruitment when two vacancies of Junior Assistant arose and the management caused paper publication in Hindu as well as Dhinamalar which are well known dailies having wide circulation. It is seen that prior permission was obtained by the management to fill up the vacancies by direct recruitment. The Department vide proceedings dated 23.02.2018 granted such prior permission. While so, Kandasamy filed W.P.(MD)No.18452 of 2020 only in the second week of December 2020.

7. The learned counsel appearing for the writ petitioner argued that the writ petitioner was knocking the doors of the Department and only as a last resort, he invoked the writ jurisdiction and that he cannot be accused of delay. We are not impressed by this defence. The writ petitioner is not a stranger to the institution. He is very much a part of the institution. He must have known about the steps taken by the management for filling up the vacancies in the post of Junior Assistant. He ought to have filed the writ petition within time. He failed to do so.



WEB COPY 8. The Hon'ble Supreme Court in the decision reported in ***(1975) 1 SCC 152 (P.S.Sadasivaswamy V. State of T.N.)*** had held that in such matters, the dispute must be raised within six months. Here there is a delay close to 2½ years. On this sole ground, the learned single Judge ought to have non-suited the writ petitioner. We also have our own serious reservations as to whether Rule 11(4) Tamil Nadu Private Colleges (Regulations) Rules 1976 can be invoked. The said rule pertains to the case of promotion. The post of Junior Assistant is not a promotional post for the post of Lab Assistant. Therefore, we are of the view that Rule 11(4) cannot be said to have been breached. Taking note of the fact that the post of Lab Assistant is not having promotional avenue, the Department subsequently issued letter conferring Selection Grade and Special Grade. In fact Kandasamy, writ petitioner was conferred with Selection Grade in the post of Lab Assistant with effect from 2019. After getting Selection Grade in the post of Lab Assistant, he could not have maintained this writ petition impugning the action of the management appointing Vinod Kumar and Mangaleswari in the post of Junior Assistant. Looked at from any angle, the order passed by the learned single



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Judge cannot be sustained. It is set aside. These writ appeals stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (K.RAJASEKAR, J.)
2nd July 2025

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

To:

1. The Director of Collegiate Education,
DPI Campus,
College Road,
Chennai – 600 006.
2. The Joint Director of Collegiate Education,
Madurai Region,
Palam Station Road,
Madurai – 625 002,
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G.R.SWAMINATHAN,J.

AND

K.RAJASEKAR, J.

PMU

W.A.(MD)Nos.870 & 1075 of 2024 & 1736 of 2025

02.07.2025