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W.A.(MD)NO.349 OF 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.08.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)No.349 of 2020 AND

C.M.P.(MD)No.2369 of 2020

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai -9.
 2. The Director of School Education,
College Road, Chennai.
 3. The Chief Educational Officer,
Nagercoil,
Kanyakumari District.
 4. The District Educational Officer,
Kuzhithurai,
Kanyakumari District. ... Appellants / Respondents
- Vs.
1. P.Sandil Bai ... Respondent / Writ petitioner
 2. C.S.I.V.V.Girls Higher Secondary School,
Rep. by its Correspondent,
Irenipuram,
Kanyakumari District. ... Respondent / Writ petitioner

Prayer: Writ appeal filed under Clause 15 of the Letters Patent,
to set aside the order dated 18.04.2018 in W.P.(MD)No.8411 of 2018.



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

For Respondents : No appearance.

* * *

J U D G M E N T

The Government has filed this appeal questioning the order dated 18.04.2018 in W.P.(MD)No.8411 of 2018 filed by the respondent herein.

2. The writ petitioner was appointed as Junior Assistant vide order dated 09.10.2017 in the second respondent school. Vacancy had arisen in the said post due to the retirement of one R.Malliga on 31.01.2014. Since the appointment proposal was not processed by the Department, the appointee filed W.P.(MD)No.8411 of 2018 . The learned single Judge allowed the writ petition in the following terms:-

“12.Pursuant to the order passed by this Court in Deva Asir's case (cited supra), now, the Government has come forward to issue G.O.(Ms)No.



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64, School Education (Pa.Ka.6(1)) Department dated 03.04.2018, wherein at Clause 4(i) and (ii), the Government directed the concerned authorities to approve the appointment of non-teaching staff in the sanctioned post of the aided recognized school.

13. When the Government itself has come forward to issue a Government Order giving such directions to the approving authorities and in as much as appointment of the petitioner has been made only in a sanctioned post, the fourth respondent cannot have any other reason to withhold such approval and therefore, this Court feels that the petitioner is entitled to seek for a direction as has been prayed herein.

14. In that view of the matter, this Court is inclined to pass the following order:

“The fourth respondent shall consider the proposal submitted by the fifth respondent School dated 09.10.2017 with regard to the appointment of the petitioner as Junior Assistant at the fifth respondent school in the light of G.O.(Ms)No.64, School Education (Pa.Ka.6(1)) Department dated 03.04.2018, particularly under Clause 4(i) and 4(ii) and pass necessary orders regarding approval of the said appointment within a period



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of four weeks from the date of receipt of a copy of this order.” ”

Aggrieved by the same, this writ appeal has been filed.

3. Though the writ petitioner was served and her name is printed in the cause list, there is no appearance on her behalf.

4. It is seen that during the relevant academic year, total number of students strength in the second respondent school was only 68.

5. It is well settled that for an aided institution to have the post of Junior Assistant, the students strength must be above 100. It is true that the department does not appear to have passed any order withdrawing the post. But then, this cannot be taken advantage by the school or the appointee. When according to the department, the said post has become surplus, direction for approving the appointment could not have been issued.



6. Thus, on the ground of fall in student's strength, we set aside the order of the learned single Judge. This writ appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (K.RAJASEKAR, J.)
12th August 2025

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

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