

W.A(MD).No.1040 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 18.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD).No.1040 of 2020

and

CMP(MD).No.5697 of 2020

1.The District Elementary Education Officer
Office of the District Elementary Educational Office
Pudukkottai
Pudukkottai District

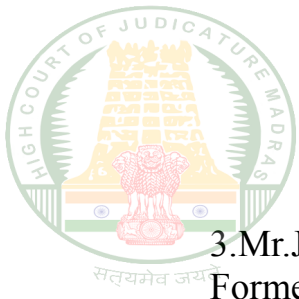
2.The Additional Assistant Elementary
Educational Officer
Office of the Additional Assistant Elementary
Educational Office
Pudukkottai, Pudukkottai District

....Appellants/
1st and 2nd respondents

Vs

1.K.Prakash
B.T.Assistant (Science)
T.E.L.C.Middle School
Aranthangi Taluk and Post
Pudukkottai, Pudukkottai District

2.The Headmaster
TELC Middle School
Aranthagi Taluk and Post
Pudukkottai, Pudukkottai District



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3.Mr.Justice J.Kanagaraj
Former Judge, High Court Madras
Judge Administrator
TELC Middle School
P.B.No.86, Tranquebar House
Tiruchirappalli 620 001

....2nd and 3rd respondents
/3rd and 4th respondents

4.The Secretary to Government
School Education Department
Fort.St.George, Chennai 600 009.

5.The Director of Elementary Education
DPI Campus, College Road
Nungambakkam, Chennai 600 006

(Respondents 4 & 5 are suo moto impleaded as
party respondents in this appeal vide Court
order dated 09.01.2020)

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the
judgment dated 18.01.2018 in WP(MD).No.19546 of 2017.

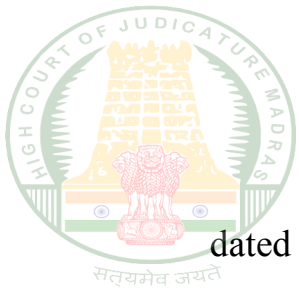
For Appellants : Mr.V.Om Prakash
Government Advocate

For Respondents : Mr.H.Mohammed Imran
For M/s.Ajmal Associates for R1

:No appearance for R2, R3, R4 & R5

J U D G M E N T
(Made by **R.VIJAYAKUMAR,J.**)

The officials of the Education Department have filed the present writ
appeal challenging the order of the writ Court in WP(MD).No.19546 of 2017



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dated 18.01.2018.

WEB COPY 2.The first respondent herein was appointed as B.T.Assistant (Science) in a sanctioned post on 29.05.2015 arising out of a transfer vacancy. The management has forwarded a proposal to the authority for approval. The approval application was rejected by the first respondent in the writ petition, on 20.04.2017 on the sole ground that there are surplus B.T.Assistant (Science) teacher in the corporate management. This order was put to challenge in the above writ petition.

3.The writ Court relying upon the Division Bench judgment of this Court in WA(MD).Nos.1292 of 2017 and 461 of 2014 dated 29.11.2017 had proceeded to allow the writ petition and directed the authority to grant approval to the appointment of the writ petitioner. Challenging the same, the present writ appeal has been preferred by the department.

4.According to the learned Government Advocate appearing for the appellants, when there are surplus B.T.Assistant within the corporate management, the School would not be entitled to make fresh appointment on the strength of the staff fixation order for the particular year. According to him, there are surplus teachers within the corporate management of TELC management.

5.Per contra, the learned counsel for the first respondent/writ petitioner submitted that the concept of surplus arising out of corporate management



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was introduced for the first time in the Division Bench of this Court reported in (2021) SCC Online Mad 1285 (*Secretary to Government, School Education Department and others vs. Iruthaya Amali and another*) dated 31.03.2021. Therefore, the appointment having been made in the year 2015, the concept of corporate surplus cannot be invoked. He also relied upon a Division Bench judgment of this Court in WA(MD).No.1557 of 2023 dated 21.09.2023 wherein the judgement in *Iruthaya Amali's case* has been held to have prospective effect. Another Division Bench of this Court in WA.No. 2190 of 2025 dated 16.07.2025 has held that the appointment made prior to *Iruthaya Amali's* have to be approved *de hors* there being surplus teachers under the corporate management.

6.In view of the fact that the appointment having been made on 29.05.2015 and the judgment of this Court in W.A(MD).No.1557 of 2023 and W.A.No.2190 of 2025, we are of the considered opinion that the concept of corporate surplus cannot be invoked by the authorities for an appointment that was made in the year 2015. Till the decision was rendered in *Iruthaya Amali's*, the School was considered to be a unit for deciding staff strength. In such circumstances, the order passed in *Iruthaya Amali's* cannot be considered to have any retrospective effect affecting the rights of the teachers who have been appointed prior to the date of judgment.



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WEB COPY 7. In view of the above said deliberations, we do not find any reason to interfere in the order passed by the writ Court and there are no merits in the writ appeal and the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(C.V.K.J.,)

(R.V.J.,)

18.09.2025.

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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**C.V.KARTHIKEYAN,J.
AND
R.VIJAYAKUMAR,J.**

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Pre-delivery Judgment made in
W.A(MD).No.1040 of 2020
and
CMP(MD).No.5697 of 2020

18.09.2025