



W.P.(MD)No.18481 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.18481 of 2025
and
W.M.P.(MD)No.14180 of 2025

A.Antony Loyala

... Petitioner

-VS-

1.The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli Palam Station Road
Tirunelveli District.

2.St. Mary's College (Autonomous),
Rep. by its Secretary,
Thoothukudi – 628001,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the first respondent herein in O.Mu.No. 12038/E2/2024 dated 19.12.2024, quash the same and further direct the first respondent herein to approve forthwith the promotion of the petitioner as Junior Assistant from 07.02.2019 onwards with salary and other attendant benefits in the light of the orders issued by this Court in W.P.(MD)No.21782 of 2023 dated 15.10.2024 and W.A.(MD)No.589 of 2025 dated 18.03.2025.



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For Petitioner : Mr.E.V.N.Siva
For R1 : Mr.T.Amjadkhan
Government Advocate

ORDER

The instant Writ Petition has been filed by a Junior Assistant, working in the second respondent College, challenging the order passed by the first respondent, wherein the request of the Management for approval of the promotion of the petitioner as 'Junior Assistant' has been rejected.

2. The petitioner herein, who was working as a 'Lab Assistant' in the second respondent Institution was promoted as a Junior Assistant in the same College. The said promotion order was forwarded to the first respondent herein for approval. Under the impugned order dated 19.12.2024, the said proposal was rejected on the ground that the pay scale to the post of 'Lab Assistant' is equivalent to the post of 'Junior Assistant' and therefore, the appointment of the petitioner from the post of Lab Assistant to Junior Assistant cannot be approved as a promotion. The said order is under challenge in the present Writ Petition.



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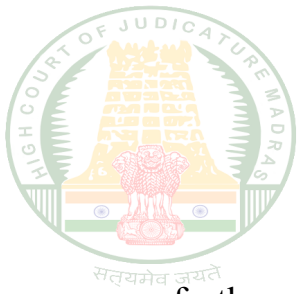
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3. The issue involved in the present writ petition is no longer *res integra*.

The Hon'ble Division Bench of this Court after considering all the above said issues had dismissed the writ petition filed by the State in W.A.(MD)Nos.114 & 9 of 2020, dated 25.03.2021.

4. The learned counsel for the petitioner submits that a similar rejection order issued by the Regional Joint Director of Collegiate Education, Madurai Region, was quashed by this Court in W.P.(MD)No.21782 of 2023, dated 15.10.2024 and the said order was confirmed in W.A.(MD)No.589 of 2025, dated 18.03.2025. However, without considering the ratio laid down in the said decisions, the first respondent has issued the impugned proceedings and therefore, the same is arbitrary, unsustainable and liable to be quashed.

5. Per Contra, the learned Government Advocate appearing for the first respondent herein would contend that when sanction was granted to the Aided College for appointment to the post of Lab Assistant, which was treated only as a non-promotional post. Therefore, the petitioner can never be promoted as Junior Assistant/Typist, considering the post of Lab Assistant as feeder category. He



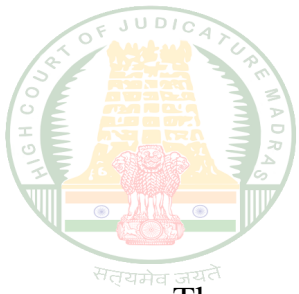
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further contended that the pay scale of the Lab Assistant is equivalent to that of Junior Assistant/Typist and therefore, the same is also a non-promotional post also. He further contended that in case, the petitioner is promoted as a Junior Assistant, the same will be treated as a feeder category for further promotion and it would create financial implications to the Government. Hence he prayed for dismissal of the writ petition.

6. I have carefully considered the submissions made on either side and perused the materials available on record.

7. A perusal of the impugned order reveals that the request of the Management for approving the promotion order from the post of Lab Assistant to the post of Junior Assistant has been rejected on the sole ground that the post of Junior Assistant/Typist can never be treated to be a promotional post, in view of the fact that the salary of both the posts are one and the same.

8. The Hon'ble Division Bench of this Court, in the judgment in W.A(MD)Nos.114 & 9 of 2020, dated 25.03.2021, has considered a similar issue.



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The operative portion of the said judgment reads as follows:-

"2.In both the cases, promotions have been given from the post of Lab Assistant to Junior Assistant. It appears that both the posts carry the same scale of pay. The case of the appellants in these cases is that, inasmuch as Lab Assistant post is not the feeder category to the post of Junior Assistant, where is a question of promotion being approved by them?

3.The learned Special Government Pleader submitted that under those circumstances, the orders passed require interference.

4.The learned counsel appearing for respondent No.1 in W.A. (MD)No.9 of 2020 placing reliance upon G.O.Ms.No.11, Education Department, dated 04.01.1989, submitted that recruitment by transfer is permissible from Lab Assistant to Junior Assistant. Secondly, it is submitted that the post of Junior Assistant is a feeder category to the post of Assistant and thereafter, Superintendent. However, the post of Lab Assistant is not a feeder category. The incumbents are languishing in the post of Lab Assistant for decades. Therefore, in any case, no prejudice would be caused.

5.We find force in the submissions made by the learned counsel appearing for the respondents. As per G.O.Ms.No.11, Education Department, dated 04.01.1989, the recruitment by transfer can be made from the post of Lab Assistant to the post of Junior Assistant. Though it has been misconstrued as that of promotion from the post of Lab Assistant to the post of Junior Assistant, inasmuch as there is no loss of



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revenue to the appellants, such recruitment by transfer cannot be objected to, after all, both the posts are drawing the same scale of pay, which certainly benefits the persons, who moved from the post of Lab Assistant to the post of Junior Assistant.

6.Right to be considered for promotion cannot be denied, though it is not a vested right. The proceedings relied upon by the appellants are meant for Specific Service Rules namely, the Tamil Nadu Private Colleges (Regulation) Act, 1976 and therefore, it cannot be applied in the case on hand. Even otherwise, as observed by us, the facts would clearly establish that no prejudice is caused. To put it differently, the Management can very well fill the post of Junior Assistant. If the post is filled otherwise, the appellants would have given sanction/permission. Admittedly, the posts are also vacant. Therefore, looking from any perspective, we do not find any reason to interfere with the order of the learned Single Judge. Accordingly, these Writ Appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."

9. In view of the judgment of the Hon'ble Division of this Court, the respondent authorities cannot take a stand that both the posts of 'Lab Assistant' as well as the post of 'Junior Assistant/Typist', are drawing the same pay scale and therefore, it is not a promotional post and the issue has already been decided by the above said judgment of the Hon'ble Division Bench of this Court.



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10. In view of the aforesaid deliberations, the order impugned in the writ petition, is set aside and the first respondent is directed to approve the promotion of the writ petitioner as Junior Assistant with effect from 07.02.2019 and pass orders and conferring all consequential benefits within a period of twelve weeks from the date of receipt of a copy of this order.

11. With the above said observations and directions, this Writ Petition stands allowed to the extent as stated above. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

NCC : Yes / No
Index : Yes / No
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08.07.2025

To:-

- 1.The Joint Director of Collegiate Education,
Tirunelveli Region, Tirunelveli Palam Station Road
Tirunelveli District.
- 2.The Secretary,
The Secretary, St. Mary's College (Autonomous),
Thoothukudi – 628001,
Thoothukudi District.



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VIVEK KUMAR SINGH, J.

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