

W.P.(MD) No.22415 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 16.07.2025

Pronounced On : 21.07.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) No.22415 of 2016

P.M.Rajakumar, B.Sc., B.Ed,
Secondary Grade Teacher,
Hindu Middle School,
Kudangulam,
Tirunelveli District

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep by its Secretary to Government,
Education Department
Secretariat, Chennai-9

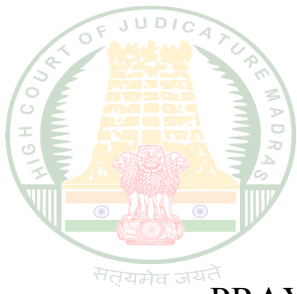
2. The Director of Elementary Education
College Road, Chennai - 6

3. The District Elementary Educational Officer
Tirunelveli.

4. The Assistant Elementary Educational Officer
Radhapuram - 627 111.
Tirunelveli District.

5. The Secretary,
Hindu Middle School,
Kudangulam,
Tirunelveli District

... Respondents



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PRAYER in W.P.:

To issue order, directions or writ orders in particular a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order passed by the 3rd respondent vide Na.Ka.No. 489/19/A5/2016, dated 27.05.2016, and quash the same, and directing the respondents to upgrade the post of Secondary Grade Teacher of the petitioner as B.T. Assistant with effect from 01.06.2002 in the light of G.O.(Ms.)No.79, School Education Department, dated 14.6.2002, with all consequential benefits, in the light of the judgment passed in W.P. (MD) No.1664 of 2005 dated 02.11.2006, in the case of *R.Padma Sheela Rani Vs. State of TamilNadu and others* and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.

APPEARANCE OF PARTIES:

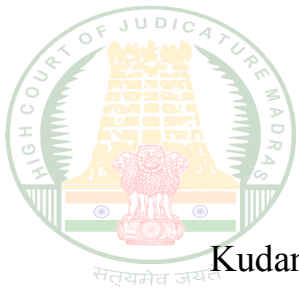
For Petitioner : Mr. K.K.Kannan
for Mr.S.N. Ravichandran

For Respondents : Mr.Amjad Khan,
Government Advocate

J U D G M E N T

Heard.

2. The petitioner, Mr. P.M. Rajakumar, is presently working as a Secondary Grade Teacher in a Government-aided Middle School in



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Kudankulam, Tirunelveli District. He seeks issuance of a Writ of Certiorarified Mandamus to quash the impugned proceedings dated 27.05.2016 passed by the third respondent and to direct the respondents to upgrade his post as B.T. Assistant with effect from 01.06.2002, in terms of G.O.Ms.No.79, School Education (U1) Department, dated 14.06.2002.

3. The petitioner was appointed as Secondary Grade Teacher on 01.07.1992 and subsequently, the petitioner acquired B.Sc., and B.Ed., qualification on 1994 and 1995 respectively and he was approved in that post by proceedings dated 29.12.1996 with effect from 01.06.1995.

4. Pursuant to G.O.(Ms.)No.79 dated 14.06.2002, the Government took a conscious decision to upgrade Secondary Grade Teacher posts in Middle/High Schools, specifically in English, Mathematics and Science as B.T. Assistant posts, on the reasoning that Secondary Grade Teachers lacked adequate qualification to teach the revised syllabus in upper primary classes. The said G.O. mandated that such upgraded posts shall be filled by persons with B.Ed. qualification. Based on this policy, several appointments were made after 01.06.2002 in upgraded posts, and those teachers are paid B.T. Assistant scale.



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5. The petitioner contends that he satisfies both limbs: (a) he is B.Ed qualified, and (b) he has been handling the same classes and subjects that upgraded B.T. Assistants handle. He further submits that his request is not for appointment afresh, but only for upgradation of the post held by him in accordance with the policy of the Government, as interpreted in earlier judicial decisions, including *R. Padma Sheela Rani v. State of Tamil Nadu* [W.P.(MD) No. 1664 of 2005, dated 02.11.2006], and *Vallalar High School v. Government of Tamil Nadu* [W.P. No. 26483 of 2005].

6. Per contra, the learned Additional Government Advocate would submit that the petitioner cannot seek benefit under G.O.(Ms.)No.79 dated 14.06.2002, as he was appointed prior to that date and the said G.O. applies only to vacancies that arose after 01.06.2002. It is further submitted that G.O.(Ms.)No.79 contemplates upgrading of the post only when it falls vacant. Since the petitioner continued in service, his post never fell vacant, and therefore, no upgradation was possible.



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7. On 03.01.2024 when this case came up for hearing this court passed the following order:

“This writ petition has been filed challenging the order dated 27.05.2015, passed by the third respondent, rejecting the petitioner's request to upgrade the post of Secondary Grade Teacher as B.T.Assistant with effect from 01.06.2002, in the light of G.O.Ms.No.79, School Education (U1) Department, dated 14.06.2002.

2. A counter affidavit has been filed by the respondents 3 & 4 stating that G.O.Ms.No.79, School Education (U1) Department, dated 14.06.2002, relied upon by the petitioner, is not applicable to him for the following reasons:

(a) The petitioner was appointed as a Secondary Grade Teacher prior to the issuance of G.O.Ms.No.79, School Education (U1) Department, dated 14.06.2002. Therefore, he is not entitled to the benefits in terms of the said Government Order.

(b) G.O.Ms.No.79, School Education (U1) Department, dated 14.06.2002, can be invoked only when the post of Secondary Grade Teacher fell vacant and the said post shall be upgraded as B.T.Assistant post by the Chief Educational Officer and thereafter, the said post shall be filled up by appointing a qualified B.T.Assistant Teacher.

(c) In the case on hand, since the petitioner is serving as a Secondary Grade Teacher, the said post cannot be shown as vacant. Therefore, when the post did not fell vacant, invoking G.O.Ms.No.79, School Education (U1) Department, dated 14.06.2002, would not arise and hence, the petitioner is not entitled to the benefits under G.O.Ms.No.79, School Education (U1) Department, dated 14.06.2002.

3. Learned counsel for the petitioner drew the attention of this Court to the following authorities in support of his contention that G.O.(Ms.)No. 79, School



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Education (U1) Department, dated 14.06.2002, is applicable to the case of the petitioner:

(a) An order, dated 23.07.2023, passed by another learned Single Judge of this Court in a batch of writ petitions, namely, W.P.No.2751 of 2015 batch.

(b) An order, dated 19.07.2024, passed by another learned Single Judge of this Court in a batch of writ petitions, namely, W.P.Nos.33611 to 33613 of 2016.

4. However, learned Government Advocate appearing for the official respondents would submit that the decisions relied upon by the learned counsel for the petitioner have no applicability for the facts of the instant case, as the said decisions dealt with either regularization of service or with cases where teachers were appointed after 14.06.2002 being the date of G.O. (Ms.)No.79, whereas the petitioner herein was appointed as a Secondary Grade Teacher in the year 1992 itself.

5. Learned counsel for the petitioner seeks further time to produce some more authorities in support of his contentions.

6. For the said purpose, post the matter on 15.10.2024 under the same caption “for dismissal”.

8. Again, when the case was taken up for hearing on 16.07.2025, the learned Government Advocate submitted before this Court that the petitioner had relied upon the proposition laid in the judgment passed in W.P.No.2751 of 2015 batch and W.P.Nos. 33611 to 33613 of 2016, however, said proposition stood set aside by the Division Bench in W.A.(MD) No. 1384 of 2014. He accordingly placed reliance on the said Writ Appeal judgment and requested that the writ petition be disposed of in terms of the binding decision in the writ appeal.



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9. On consideration of rival submissions and perusal of records, it is not in dispute that the petitioner is B.Ed qualified and has been handling subjects such as Maths and Science for upper primary students. It is also not in dispute that under G.O.(Ms.)No.79 dated 14.06.2002, the Government directed that Secondary Grade posts in certain subjects and standards shall be upgraded and filled by B.Ed. holders.

10. However, the core issue here is whether the petitioner's post already filled and held prior to 01.06.2002 can be notionally upgraded retrospectively and whether such upgradation would entitle him to claim B.T. Assistant scale of pay from that date.

11. This issue is no longer *res integra*. The Division Bench in ***The State of Tamil Nadu Vs. M.Mary Jacklin Pushpa*** (W.A.(MD) No. 1384 of 2014 and batch, dated 02.04.2025), after reviewing the Government Orders and various judicial pronouncements, held that a Secondary Grade Teacher is entitled to claim the benefit of upgradation under G.O.(Ms.) No. 79 dated 14.06.2002, only if a post of Secondary Grade Teacher in the Middle School was vacant and the teacher was handling classes VI to VIII



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and possessed B.A., B.Ed. qualification as on 01.06.2002. The G.O. does not contemplate individual upgradation solely based on qualification unless post-level vacancy and workload conditions are satisfied. The Division Bench emphasised the difference in recruitment method, qualifications, and post nomenclature.

12. The petitioner herein was appointed in 1992 and continued in the same post. The upgraded posts under G.O.(Ms.)No.79 were to be filled against future vacancies and not to be retrospectively applied to existing incumbents. The writ petitioner's post was never declared vacant, nor was it upgraded in terms of the G.O. Therefore, the benefit claimed is contrary to the terms of the policy and has already been negated by the aforesaid binding Division Bench judgment.

13. The claim based on "equal pay for equal work" also fails in this context. As held by the Supreme Court in ***State of Punjab v. Jagjit Singh [(2017) 1 SCC 148]***, such principle applies only where the incumbents are similarly situated in all respects qualifications, mode of recruitment, nature of duties, and responsibilities. Here, the Government has drawn a valid classification between those appointed prior to G.O.(Ms.)No.79 and those



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appointed pursuant to it in upgraded posts. This classification has been upheld as constitutionally valid.

14. In view of the binding precedent of the Division Bench and in the absence of vacancy-based upgradation or policy extension to existing incumbents, the petitioner's claim is unsustainable.

15. Accordingly, the writ petition stands dismissed. There shall be no order as to costs.

21.07.2025

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No

LS

To

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State of Tamil Nadu
Education Department
Secretariat, Chennai-9

2. The Director of Elementary Education
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Pre-delivery Judgment made in
W.P. (MD) No.22415 of 2016

21.07.2025