



W.P.(MD)No.25712 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2025

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.25712 of 2024

and

WMP(MD).Nos.21793 & 21795 of 2024

The Correspondent,
St. Joseph's College Higher Secondary School,
Near Chatram Bus Stand,
Trichy District-620 002.

...Petitioner

Vs

1.The State of TamilNadu
represented by its Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.

2. The Director of School Education,
College Road, Chennai-600 006.

3. The Chief Educational Officer,
Trichy, Trichy District.

4. The District Educational Officer,
Trichy, Trichy District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari Mandamus, calling for the records relating to the impugned proceedings issued by the 3rd respondent/CEO in Oo.Mu.No.1089/A4/2023 dated 31.05.2023



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and the consequential proceedings of the 4th respondent DEO in Oo.Mu.No.1393/Aa3/2023 dated 07.06.2023 and quash the same and further direct the 3rd and 4th respondents to approve forthwith the appointment of G.Stanly Gunaseelan as BT Assistant (Science) in the petitioner's school w.e.f., 04.06.2019 and disburse the grant-in-aid towards his salary and allowance with all attendant benefits.

For Petitioner : Mr.K.Ragatheesh Kumar
for
M/s.Isaac Chambers

For Respondents : Mr.N.Satheesh Kumar

ORDER

This writ petition has been filed challenging the proceedings issued by the 3rd respondent/CEO in Oo.Mu.No.1089/A4/2023 dated 31.05.2023 and the consequential proceedings of the 4th respondent DEO in Oo.Mu.No.1393/Aa3/2023 dated 07.06.2023 and seeking consequential direction to the 3rd and 4th respondents to approve forthwith the appointment of G.Stanly Gunaseelan as BT Assistant (Science) in the petitioner's school w.e.f., 04.06.2019 and disburse the grant-in-aid towards his salary and allowance with all attendant benefits.



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2. The learned Counsel for the petitioner would submit that the petitioner school is a minority institution. In the petitioner's school one post of BT Assistant (Science) fell vacant on 01.06.2019 due to the retirement of the then incumbent Mr.A.John Peter and in the said vacancy, they had appointed one G.Stanly Gunaseelan who possessed all necessary qualification including TET, with effect from 04.06.2019 and on from the date of appointment he had been continuously serving in the said post. A proposal has been forwarded to the respondents to approve the appointment of the said BT Assistant (Science) for the purpose of disbursement of grant-in-aid towards his salary. However, by proceedings dated 12.11.2019 , the said proposal was returned seeking for clarification and certain other documents. The said proposal was resubmitted along with all necessary documents on 05.12.2022 and the same was kept pending by the respondents. Hence, the petitioner approached this Court by filing writ petition in W.P.(MD).No.2025 of 2023. This Court passed an order on 01.02.2023, with a direction to the official respondents to consider the same within a time frame as stipulated by this Court. By way of impugned proceedings dated 31.05.2023, the 3rd respondent herein had refused to approve the appointment of one G.Stanly Gunaseelan as BT Assistant (Science) in



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the petitioner's school by stating reasons that for the academic year 2019-2020 and 2022-2023, the said post had declared as surplus in Trichy District and considering the same there has been deployment of teacher working in the boys higher secondary school, Thiruvarangam to the petitioner school. The order of deployment was challenged. However, it is unsuccessful, against which an intra-court appeal was filed in WA.(MD).No.1109 of 2023. The said writ appeal was allowed by this Court, by considering the undertaking given by the department that the directions in WA(MD).No.76 of 2019 will be scrupulously followed and hence the same was remitted back for fresh consideration. In the said intra-court appeal, the order of deployment was set aside and thereafter the respondents did not take any steps deploying any surplus teacher.

3. He would further submits that the order impugned herein had been made wholly on misconception that the surplus teacher in the District/corporate management would have to be taken into account in filling up the vacancy only by deployment and not by direct recruitment. He would submit that the concept of corporate management surplus had been enunciated by this Court by order dated 31.03.2021 passed in

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WA(MD).No.76 of 2019. Subsequently, the Hon'ble Division Bench of this Court had also held that such requirement would be only prospective that is from the date of the said judgement. He would further submit that in the present case, the petitioner has appointed as BT Assistant (Science) as early as on 04.06.2019. The reasons attributed by the respondents is wholly illegal and arbitrary and therefore he prays to set aside the order passed by the respondents. It is also to be noted that he had also placed on record a qualification of TET with regard to the appointment of Stanly Gunaseelan, BT Assistant (Science).

4. Countering his argument, Mr.N.Satheesh Kumar, the learned Additional Government Pleader would submit that the corporate surplus as held by the Hon'ble Division Bench of this Court in its order dated 31.03.2021 in WA(MD).No.76 of 2019 is not prospective and retrospective as held by order of another Division Bench judgement of this Court in WA(MD).No.1668 of 2024 etc., batch. He further submits that when that being so, without filling up the surplus, the petitioner school could not have appointed by direct recruitment. He further submits that there is no infirmity in the order impugned in the present writ petition.



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5. I have considered the submission made on either side and carefully perused the materials available on record.

6. Admittedly, the vacancy arose on 01.06.2019 in view of the superannuation of the then incumbent, who was holding the post of B.T. Assistant. It is not disputed that the petitioner had been appointed as B.T. Assistant (Science) Teacher on 04.06.2019. It is the case of the respondents that there has been a District Surplus in Trichy District. When that being so, they should have made an order of deployment immediately. The respondents have only deployed a Teacher in the year 2023, which has also been set aside by the Division Bench of this Court and the matter had been remitted back to the authorities. Even thereafter, no steps have been taken by the respondents in that regard.

7. It is to be noted that the concept of the District Surplus is not supported by the Statute and the Rules governing the field. It is further to be noted that the Division Bench of this Court in W.A.(MD).No.76 of 2019 etc., batch by its order dated 31.03.2021, had envisaged the concept of corporate/joint management surplus and had also issued a compendium in that regard. Even in the said compendium made by this



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Court in the said judgment had not been followed and only a deployment had been made in the year 2023.

8. The learned Additional Government Pleader had relied upon a judgment of a Division Bench of this Court in W.A.(MD).Nos.1668 of 2023 etc., batch dated 30.04.2025, to contend that the judgment made in W.A.(MD).No.76 of 2019, dated 31.03.2021, would have to be considered as retrospective. The said judgment had also noted that the earlier Co-ordinate benches has held that the judgment made in W.A.(MD).No.76 of 2019, dated 31.03.2021, is only prospective, but had attributed reasons that the coordinate benches had not taken into consideration a circular of the respondents with regard to Corporate/Joint Management Surplus issued as early as in the year 2010.

9. It is to be noted that the Division Bench of this Court in W.A.(MD).No.1557 of 2023 in and by its order dated 21.09.2023, had categorically held that the judgment of the Division Bench made in W.A.(MD).No.76 of 2019 was conscious not to nullify the appointments that had been made earlier to prevent the administrative chaos as under the said judgment new norms have been made. It has also noted that the said



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judgment directed framing of Rules. In that respect, the Hon'ble Division Bench had held that the judgment dated 31.03.2021 made in W.A.(MD).No.76 of 2019, could only be prospective in declaring so, the Division Bench has also relied upon a judgment of the Hon'ble Apex Court reported in **(2010) 5 SCC 388**, . For better appreciation, the relevant paragraphs are extracted hereunder:-

16. The Hon'ble Division Bench was consciously did not nullify the appointments made earlier since it establishes a new norm to prevent administrative chaos and even directs framing of rules and it is not a simple case of upturning an earlier decision or ruling, by which it can be applied retrospectively to all pending cases. The findings of the Division Bench and the directions given depend on each other and without following the compendium of schedule, information of the school, etc, in isolation, the appointment which was made even prior to the interim order by the Hon'ble Division bench cannot be construed as having been affected by the judgment in Iruthaya Amali's case.

17. More so, whether the appointment which is made pursuant to an express permission can be refused approval or not was also not an issue in Irudaya Amali's case and thus would result in a great hardship and undue prejudice by applying the ratio to the a case



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where the appointment itself was made after express permission. Accordingly, we hold that the appointment of the writ petitioner cannot be refused citing the directions given in Iruthaya Amali's case. As a matter of fact even in the impugned order, the appellants/respondents were not clear as to whether Iruthaya Amali's case is applicable or not and that in view of the pronouncement since the Government has not come clear with the clarification they are not approving. Further, it can be seen that there was no redeployment of any teacher at all to the second respondent school and on the contrary, the appellants gave express permission for the second respondent school to fill up the vacancy.

*18. The impossibility of retrospective or retro active application of directions in a Judgment has been considered by the Hon'ble Supreme Court of India in **Goan Real Estate Construction Limited and Another - Vs- Union of India** reported in (2010) 5 SCC 388 and it is specifically held in paragraph 31 that the Judgment should be read in the context and its entirety and the observations should not be applied out of context. In paragraph 39 it is held that the nature of directions should be considered to give prospective effect. In paragraph 34 it is held that whenever a new norm is established the ability to retrospectively effectuate the new rule should be considered. Thus, applying the*



dictum, it can be seen that the Division Bench had consciously did not nullify the appointments pending approval.

This aspect has been clearly over looked by the Division Bench in a judgment relied upon by the learned Additional Government Pleader.

10. It is further to be noted that the circular that has been relied upon in the said judgment is only in-operative, as the same is neither supported by the Rules and the Statute. In that context, this Court is of the view that the judgment relied upon by the learned Additional Government Pleader made in W.A.(MD).Nos.1668 of 2023 etc., batch dated 30.04.2025, cannot be said to be the correct law.

11. For the aforesaid reasons, this Court is of the view that the judgments made in W.A.(MD).No.76 of 2019, dated 31.03.2021, as held by the Division Bench of this Court in W.A.(MD).No.1557 of 2023, dated 21.09.2023, can only be prospective and not retrospective. Having come to the said conclusion this Court holds the impugned order is liable to be set aside and is accordingly set aside and as the Teacher, whose appointment is sought to be approved has also acquired the



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qualification of TET, it would only be prospective to approve the appointment.

12. In fine, the Writ Petition stands allowed and the impugned order dated 31.05.2023 and consequential order dated 07.06.2023 are hereby quashed and the respondents are directed to grant approval of the appointment of Mr.G.Stanly Gunaseelan, BT Assistant (Science) with effect from 04.06.2019 and disburse grant-in-aid towards the salary, all other attendant benefits and arrears of salary from the date of appointment. The said exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
gvn/pbn



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To:
WEB COPY

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Department of School Education,
Fort St. George, Chennai-600 009.
2. The Director of School Education,
College Road, Chennai-600 006.
3. The Chief Educational Officer,
Trichy, Trichy District.
4. The District Educational Officer,
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K.KUMARESH BABU, J.

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