



W.A.(MD)No.998 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.08.2025

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.998 of 2020
and
C.M.P.(MD)No.5377 of 2020**

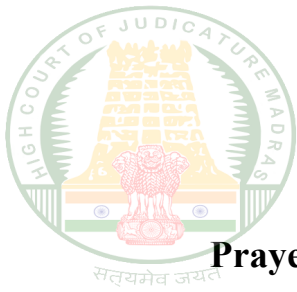
- 1.The Director of School Education,
College Road, Chennai – 600 006.
- 2.The Joint Director of School Education,
College Road, Chennai – 600 006.
- 3.The Chief Educational Officer,
Ramanathapuram – 623 501,
Ramanathapuram District.
- 3.The District Educational Officer,
Ramanathapuram – 623 501,
Ramanathapuram District.

... Appellants

Vs.

The Correspondent,
St.Joseph's Higher Secondary School,
Verkottu, Rameswaram – 623 526,
Ramanathapuram District.

... Respondent



W.A.(MD)No.998 of 2020

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.14886 of 2015 dated 27.02.2017 on the file of this Court.

For Appellants : Mr.C.Venkateshkumar,
Spl. Government Pleader.

For Respondent : Mr.K.Ragadeesh Kumar,
For M/s.Issac Chambers.

JUDGMENT
(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The writ petitioner / management appointed one Justin Chinna Thami as B.T. Assistant (English) on 23.07.2009 in the vacancy caused by the retirement of a Secondary Grade Teacher. Permission for conversion of P.G.Assistant vacancy to that of B.T.Assistant was accorded on 28.03.2011. The only question that calls for consideration is whether the appointment has to be approved from the date when permission was granted for conversion or from the original date of appointment. The learned Single Judge had held that this issue is no



W.A.(MD)No.998 of 2020

longer res integra. Paragraph Nos.5 to 8 of the order of the learned

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Single Judge read as follows:-

“5.The learned counsel for the petitioner has submitted that the issue is covered by the judgment of the Hon'ble Division Bench of this court and has relied upon the Judgment of the Division Bench of this Court in W.A.No.2058 of 2010 dated 21.03.2011, wherein it has been held as under:

“Aggrieved by the order of the learned single Judge in W.P.No.19902 of 2008, dated 10.04.2009, allowing the writ petition filed for conversion of the BT Assistant post into English with effect from 3.9.2003 with all attendant benefits, the state along with its Subordinate officers have come with the present appeal.

2.Learned Additional Government Pleader appearing for the appellants submitted that when the respondent Management sought for conversion from the post of PG Assistant History to PG Assistant English with effect from 3.9.2003, the date on which the concerned teacher was appointed, the second appellant allowed the conversion sought for by the respondent with effect from 8.12.2005, instead of 3.9.2003 the ground that no prior permission of the Chief Educational officer is sought for. Since the refusal on the part the appellants in accordance with G.O.Ms. No.285, Educational Department, dated 1.10.1999, the impugned order is liable to be set aside.

3.We have perused the materials on record. It is that seen that one Thiru.B.Sebastian, who served BT Assistant (History) was promoted as PG Assistant with effect from 03.09.2003 and in the said post the appellant the was appointed with effect from 03.09.2003. On the aforesaid factual scenario, the learned Single Jude by relying on the earlier decision of this Court reported in



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W.A.(MD)No.998 of 2020

2005 - WLF - 515 (M.Sivakumar v. The Government of Tamil Nadu by Secretary, Education Department, Fort St.George, Chennai & 2 others) has set aside the order passed by the appellant. It is not the case of the appellants that the aforesaid decision is not applicable to the facts of the present case. Since the post fell vacant on 3.9.2003 and the respondent had appointed the concerned teacher on 3.9.2003, we do not see any illegality in the order passed by the learned single Judge and the appellants cannot resist the claim of the respondent on the ground that prior permission ought to have been sought for.

4.In view of the above, we do not see any reason to entertain the writ appeal, which is accordingly dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed."

6. It is seen that in yet another judgment in W.A.(MD)Nos. 828 of 2014 and 129 to 132 of 2015, dated 22.04.2016, the Hon'ble Division Bench of this Court, by referring to its earlier Judgment dated 21.03.2011, held as follows:

"11.In view of the above consistent decisions of this Court on the issue, we are of the view that the issue is no more res integra. As rightly contended by the learned counsel for the 1st respondents/teachers, approval has to be granted only from the date of appointment and not from a later date, namely from the date on which permission for post conversion was granted.

12.Contention by the appellants that the returned proposal were not challenged by the management and



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W.A.(MD)No.998 of 2020

hence it has to be treated as accepted and hence the teachers have no right to question the same cannot be accepted. It has to be seen that ultimately, it is the teachers who are affected. Therefore, even if the management has not taken up the cause, the aggrieved teacher has every reason to question returned proposals. The educational authorities ought to have considered that the very object the the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and the Rules made thereunder are to protect the interests of the teachers and students. Therefore, right of the teacher cannot be said to be extinguished. Power of the educational authorities to issue directions to fill-up the posts on conversion cannot be questioned. At the same time, the schools should be given latitude to fill-up required posts. If Maths and other subject teachers are already working in a school, the management should have the right to fill-up the posts with other subjects, if there is a need for filling up the posts with the required subjects.

13.In the light of the decision in W.A.No.2058 of 2010, dated 21.03.2011 and the discussions, all the writ appeals ace dismissed. No order as to costs. Connected miscellaneous petitions are closed."

7. Heard Government Fleader the Warned Additional appearing for the respondents who fairly submitted that the issue on hand is squarely covered by the judgments of the Hon'ble Division Bench of this Court.

8.In view of the legal position enunciated in W.A.(MD)Nos. 828 of 2014 and 129 to 132 of 2015, dated 22.04.2016 and also finding that the issue on hand is no more res integra and the approval has to be granted from the date of appointment and not



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W.A.(MD)No.998 of 2020

from the later date, viz., from the date on which permission for post conversion was granted, this Court is of the view that the impugned orders dated 28.03.2011, 28.06.2011, and 26.11.2013 are liable to be set aside.”

3.We are satisfied that the learned Single Judge had adopted the right approach. Interference with the said order is not warranted and the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (K.R.S. J.)
11.08.2025

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

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