



W.P.(MD).No.29151 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.29151 of 2023

and

W.M.P.(MD)Nos.25192 & 25194 of 2023

& 3450 of 2024

M.Suresh

... Petitioner

Vs

1. The State of Tamil Nadu
Rep. by its Principal Secretary to Government,
School Educational Department,
St. George Fort,
Chennai.

2. The Commissioner of School Education,
O/o.Commissioner of School Education,
DPI Campus,
College Road,
Nungambakkam,
Chennai

3. The Joint Director of School Education (Personnel),
O/o.Joint Director of School Education (Personnel),
DPI Campus,
Chennai

4. The Chief Educational Officer,
O/o. the Chief Educational Officer,
Madurai District

5. The District Educational Officer,
O/o. the District Educational Office,
Madurai District

...Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the 4th respondent vide his proceedings in Na.Ka.No. 8868/A2/2022 dated 27.11.2023 and quash the same as illegal.

For Petitioner : Mr.S.Mohamed Suhail
for
M/s.Ajmal Associates

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

The instant Writ Petition has been filed by a Junior Assistant employed in the fourth respondent office, seeking to set aside the order passed by the fourth respondent on 27.11.2023, wherein, the petitioner has been reposted as a Lab Assistant from the post of Junior Assistant.

2. A perusal of the records reveal that the petitioner who was working as a Lab Assistant was appointed as a Junior Assistant by way of transfer of service invoking Rule 3(g) of TamilNadu Ministerial Service Rules, on 27.02.2014. After a lapse of nine years, the present impugned order has been passed by the fourth respondent cancelling the said posting orders, primarily on the ground that the post of Lab Assistant as well as the post of Junior Assistant are carrying same scale of pay and therefore, Rule 3(g) of TamilNadu



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Ministerial Service Rules cannot be invoked and the petitioner should not have been appointed as a Junior Assistant.

3. The learned Counsel appearing for the writ petitioner would submit that the post of Lab Assistant does not have any promotional opportunities and therefore one of the alternative conditions mentioned in the said rule has been satisfied. In such circumstances, the authorities have rightly appointed the petitioner as a Junior Assistant on 27.02.2014.

4. The learned Counsel appearing for the writ petitioner also relied upon the judgement of Hon'ble Division Bench of this Court in W.A.(MD).No.1511 of 2024 dated 05.09.2024 and the order of this Court in W.P.(MD).No.26311 of 2023 dated 02.01.2025 and contended that the said issue has already been decided by this Court.

5. Per contra, the learned Additional Government Pleader appearing for the respondent herein had contended that the post of Lab Assistant and the post of Junior Assistant are carrying equal scale of pay and therefore the petitioner is not entitled to be appointed as a Junior Assistant invoking the above said rules. He further contended that only if the petitioner's pay scales are lower, the



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petitioner would be entitled to invoke the above said rule and get appointed as Junior Assistant. Hence, he prayed for sustaining the impugned order.

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

7. The facts captured above will clearly indicate that the petitioner who was working as a Lab Assistant has been appointed as a Junior Assistant by way of transfer of service on 27.02.2014 invoking Rule 3(g) of TamilNadu Ministerial Service Rules. It is not an dispute that the post of Lab Assistant does not have any promotional opportunities and the post of Lab Assistant and the post of Junior Assistant are carrying equal scale of pay. Therefore, it is clear that the petitioner has complied with one of the conditions that is required to be satisfied for invoking Rule 3(g) of TamilNadu Ministerial Service Rules. That apart, the Hon'ble Division Bench of this Court judgement reported in W.A.(MD).No.1511 of 2024 dated 05.09.2024, had an occasion to consider a similar issue and has given a categorical finding that the appointment of a Lab Assistant as a Junior Assistant invoking Rule 3(g) of TamilNadu Ministerial Service Rules is legally sustainable. This Court has also followed the said judgement in W.P.(MD).No.26311 of 2023 dated 02.01.2025.



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8. In view of the above said deliberations, the order impugned in this writ petition is set aside. This writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

24.01.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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R.VIJAYAKUMAR, J.

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