Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2026

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

WP No. 11896 of 2024
CNR: {HCMA010758172024}

C.Thangaraj

..Petitioner(s)

Vs

1. The Government of Tamil Nadu,
   Rep. By its Secretary,
   Higher Education Department,
   Secretariat, Chennai-600 009.

2. The Director of Collegiate Education,
   Directorate of Collegiate Education Saidapet,
   Chennai-600 015.

3. The Joint Director of Collegiate Education,
   Coimbatore Region, Race Course Road,
   Coimbatore-18.

4. The Principal
   Chickayya Naicker College,
   Veerappanchathiram, Erode-4.

5. The Accountant General
   (Accountants and Entitlement),
   Anna Salai, Chennai-600 018.

..Respondent(s)

Prayer: Petition filed under Article 226 of the Constitution, seeking a writ of certiorarified mandamus, calling for the records of the 2nd respondent pertaining to the impugned order passed in his proceedings in Na.Ka.No.6150/F1/2022 dated 10.01.2024 and quash the same and consequently direct the respondents to revise the initial appointment of the petitioner, as Junior Assistant with effect from 18.06.2001 and to give consequent promotion as Assistant with effect from 29.12.2005 and fix the selection grade pay from 30.12.2015 and fix the revised pension and to pay the monetary benefits along with arrears and appropriate interest.

For Petitioner(s): Ms.C.Neethimozhi

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For Respondent(s): Mr.C.Vigneswaran
Additional Government Pleader for R1 to R3

Mr.B.Ravi for R4

Ms.G.Pavithra
Standing Counsel for R5

ORDER

The present writ petition has been filed challenging the impugned order dated 10.01.2024.

2. The main ground urged by the petitioner is that, on the date of his appointment, that is on 15.06.2001, he has got the requisite qualifications to be appointed as Junior Assistant. In spite of that, he was considered for the post of Lab Assistant. In the meanwhile, he retired during the year 2019.

3. The learned counsel would rely upon the Government Order in G.O.Ms.No.1499, Labour and Employment (Q1) Department, dated 03.08.1989, in which, it was directed that under no circumstances, the dependant of the deceased employee to be appointed in a lower post when the dependant possess the qualifications required to hold the post of Junior Assistant/Typist, on the ground of non-availability of vacancy.

4. It was specifically submitted by the petitioner that the petitioner was not provided with the Junior Assistant post only on account of non-availability of the said post, which is contrary to the above Government

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Order. He would also rely upon the judgment of the learned Single Judge made in W.P. (MD) Nos.13354 and 13355 of 2013 dated 06.12.2018.

5. This contention was totally objected by the learned counsel appearing for the respective respondents, who would submit that the petitioner's mother was working as a Sweeper in Sri Saradha Education Institute at Salem and after the demise of his mother, by way of compassionate appointment, when the petitioner applied for the post of Sweeper, since Sri Saradha Education Institute is a women's College, they rejected his request. Thereafter, when he filed an application before the fourth respondent College, the same was considered and on the date of consideration, only the post of Record Clerk was in existence and he has been appointed in such post and having served in such capacity till retirement, the very filing of the present writ petition is contrary to law and is also liable to be rejected on the ground of delay and latches.

6. I have given my anxious consideration to either side submissions.

7. The very compassionate appointment is not a fundamental right. Compassionate appointments is exception to public appointments and therefore, such appointments have to be considered in accordance with the existing Rules.

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8. In this case, though the petitioner relied upon the 1984 Government Order, this Court, time and again, has held that compassionate appointment should be in accordance with the Guidelines and in the case in hand, the petitioner was appointed in compassionate appointment during 2001. On the date of the compassionate appointment, according to the respondents, there was no vacancy in the Junior Assistant Post. However, it is the contention of the petitioner that contrary to the Government Order, the petitioner was appointed in the lower post of Lab Assistant instead of Junior Assistant.

9. In this regard, this Court would like to mention that if the petitioner has opted to be appointed in the Junior Assistant Post, the petitioner would not have been forced to join in the Lab Assistant Post. Since there was only Lab Assistant Post and the petitioner having joined and served in that capacity until 2019 without demur, the very claim made by the petitioner, after a long lapse of period for nearly about nineteen years, is also starring against the petitioner.

10. Therefore, this Court is of the firm view that the contention of the petitioner, that though he was appointed in the post of Lab Assistant, he must be construed as Junior Assistant, is contrary to the service jurisprudence. The Government Order which is referred by the petitioner should only be construed that if there is no vacancy and if the petitioner is not willing to join the lower post, as and when the vacancy arises, he

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ought to have been accommodated in the Junior Assistant post. Therefore, at this length of time, he cannot seek conversion of the post from Lab Assistant to Junior Assistant.

11. The learned counsel for the petitioner relied upon the learned Single Judge's order and the Division Bench's order, whereas, this Court is of the firm view that the above orders are distinguished from the facts of the present case.

12. In such view of the factual position, this Court does not find any merit in the writ petition. Accordingly, the writ petition is dismissed. There shall be no order as to costs. Consequently, W.M.P.No.12991 of 2024 is closed.

30-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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C.KUMARAPPAN, J.

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To:

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   Higher Education Department,
   Secretariat, Chennai-600 009.

2. The Director of Collegiate Education,
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