



W.A(MD)No.429 of 2026

WEB CODE BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2026

CORAM:

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.A(MD)No.429 of 2026
and
C.M.P(MD)No.3850 of 2026**

1.The State of Tamil Nadu,
Represented by its Principal Secretary to the Government,
School Education 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. Chief Educational Officer,
Thirumangalam,
Madurai District.

... Appellants/Respondents

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vs.

L.R.J.Sakila

... Respondent/Writ Petitioner

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 24.01.2025 made in W.P(MD)No.26825 of 2023 on the file of this Court.

For Appellants : Mr.J.Ashok
Additional Government Pleader

For Respondent : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

JUDGMENT

[Judgment of the Court was made by N.SATHISH KUMAR, J.)

Challenging the impugned order passed by the learned Single Judge in W.P(MD)No.26825 of 2023, dated 24.01.2025, whereby the show cause notice dated 15.09.2023 was set aside, the State has preferred the present Writ Appeal.



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2.The respondent/writ petitioner was originally appointed as a Record Clerk and was subsequently promoted as a Lab Assistant. Thereafter, he was appointed as a Junior Assistant by way of recruitment by transfer. It is an admitted position that the post of Lab Assistant does not carry any promotional avenue and that the post carries the same scale of pay as that of Junior Assistant.

3.By the show cause notice dated 15.09.2023, the fourth appellant proposed to cancel the appointment of the writ petitioner as Junior Assistant and to revert him to the post of Lab Assistant. The said action was sought to be taken by invoking Rule 3(g) of the Tamil Nadu Ministerial Service Rules. Challenging the same, the writ petitioner filed the Writ Petition.

4.The learned Single Judge, placing reliance on the judgment of the Division Bench of this Court in W.A(MD) No. 1511 of 2024, dated 05.09.2024, as well as the order passed in W.P(MD) No.26311 of 2023,



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dated 02.01.2025, set aside the show cause notice dated 15.09.2023.

Aggrieved by the same, the State has filed the present Writ Appeal.

5.The learned Additional Government Pleader appearing for the appellants contended that, as per Rule 3(g) of the Tamil Nadu Ministerial Service Rules, appointment by recruitment by transfer is permissible only in respect of persons who are in categories having no promotional opportunities or, even after more than one promotion, continue to draw a scale of pay lower than that of Junior Assistant, Junior Assistant-cum-Typist or Typist. It is submitted that both the conditions must be read in conjunction.

6.It is further contended that the writ petitioner was initially appointed as Record Clerk and subsequently promoted as Lab Assistant. Therefore, according to the learned Additional Government Pleader, the case of the writ petitioner would fall only under the second limb of Rule 3(g), and since he is drawing a scale of pay equal to that of Junior Assistant, he would



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not be entitled to appointment by recruitment by transfer. It is thus submitted that the learned Single Judge failed to properly consider the scope of the Rule.

7.Per contra, the learned counsel appearing for the respondent/writ petitioner submitted that the post of Lab Assistant admittedly has no promotional avenues and carries the same scale of pay as that of Junior Assistant. It is contended that Rule 3(g) contains two independent conditions, and satisfaction of either one of them is sufficient to make a person eligible for recruitment by transfer. It is further submitted that the Rule does not prohibit a person, who has already been promoted within the service, from being considered under the first limb, if the category in which he is presently working has no promotional opportunities.

8.We have heard the learned counsel appearing on either side and perused the materials available on record.



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9.Rule 3(g) of the Tamil Nadu Ministerial Service Rules reads as follows:

“3. Method of Recruitment – Special:

...

(g) Besides direct recruitment as provided in Rule 2, appointment to the categories of Junior Assistant, Junior Assistant-cum-Typist and Typist shall be made by recruitment by transfer from other services, subject to the following conditions, namely:—

(i) Persons in services, other than the Tamil Nadu Ministerial Service, who are in categories having no promotional opportunities or, even after more than one promotion in the respective service, would still be in a category carrying a scale of pay lower than that of Junior Assistant or Junior Assistant-cum-Typist or Typist alone shall be considered for appointment by recruitment by transfer, subject to the possession of the prescribed qualifications for direct recruitment.

.....”



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10.A careful reading of the above Rule indicates that it comprises two distinct limbs:

- (i) persons in categories having no promotional opportunities; and
- (ii) persons who, even after more than one promotion, continue to draw a scale of pay lower than that of Junior Assistant or equivalent posts.

11.The use of the disjunctive expression “or” between the two limbs makes it clear that they operate independently. Therefore, fulfillment of either of the conditions would suffice to render a person eligible for consideration for appointment by recruitment by transfer, subject to other prescribed qualifications.

12.In the present case, it is not in dispute that the post of Lab Assistant does not carry any promotional avenues. Therefore, the writ petitioner squarely falls within the first limb of Rule 3(g)(i).



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13. There is no express prohibition in the Rule to the effect that a person, who has already been promoted within the service, would be disentitled from being considered under the first limb. In the absence of any such restriction, the interpretation sought to be placed by the appellants cannot be accepted.

14. This issue is no longer res integra. In W.P(MD)No.26310 of 2013, dated 08.01.2024 [*S. Ramesh Vs. The Director of School Education and others*], the learned Single Judge allowed the Writ Petition on the ground that merely because of pay scales are the same that would not prevent a candidate from being recruited to another service by transfer of service. The said view has been affirmed by the Division Bench in *W.A(MD)No.1054 of 2024, dated 25.06.2024 [The Director of School Education and others Vs. S. Ramesh]*. Further, in *W.P(MD)No.26311 of 2023, dated 02.01.2025 [S.Sridaran Vs. The Director of School Education and others]*, the learned Single Judge of this Court held that satisfaction of



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any one of the conditions under Rule 3(g) is sufficient. A similar view has also been taken in ***W.A(MD) No.1801 of 2025 batch, dated 13.08.2025 [The State of Tamil Nadu and others Vs. S. Madhavi and others]***.

15.It is also brought to the notice of this Court that the said position has been accepted and implemented by the Government by issuing G.O.Ms.No.139, School Education (Pa.Ka.4(2)) Department, dated 04.09.2025.

16.In such view of the matter, we are of the considered opinion that, in the absence of any specific prohibition in the Rule, the second limb cannot be construed as a restriction disabling a person, who has already been promoted, from being considered under the first limb. We, therefore, find no merit in the Writ Appeal.



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17. Accordingly, the Writ Appeal is dismissed. It is, however, open to the appellants to bring about appropriate amendments to the Rule, if so advised, with necessary clarity. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[N.S.K.,J.] [M.J.R.,J.]
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NCC : Yes / No
Index : Yes / No
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