



W.A.(MD)No.2018 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2026

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

W.A(MD)No.2018 of 2023

&

C.M.P.(MD)No.15900 of 2023

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Higher Education,
Fort St.George, Chennai-600 009.

2.The Commissioner,
The Directorate of Technical Education,
Guindy, Chennai-600 025.

... Appellants /
Respondents

Vs.

1.V.Murugesan
Skilled Assistant (Chemistry),
Kamaraj Polytechnic College,
Pazhvilai-629 501.

... 1st Respondent /
Writ Petitioner

2.The Secretary cum Correspondent,
Kamaraj Polytechnic College,
Pazhvilai-629 501,
Kanyakumari District.

... 2nd Respondent /
3rd Respondent



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Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 09.01.2023 made in W.P.(MD)No.16582 of 2019 and allow the writ appeal.

For Appellants : Mr.C.Venkatesh Kumar
Special Government Pleader

For Respondents : Mr.Isaac Mohanlal
Senior Counsel
for M/s.Isaac Chambers
for R1

: Mr.N.Dilipkumar
for R2

JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

The State has filed this intra-court appeal challenging the order dated 09.01.2023 passed by the learned Single Judge allowing W.P. (MD)No.16582 of 2019 filed by the 1st respondent herein.

2. The Management of Kamaraj Polytechnic College, Pazhavilai issued the recruitment notification dated 04.10.2015 calling for applications from eligible candidates for filling up the post of skilled assistant (chemistry). The writ petitioner was one of the applicants. Interview was held on 17.11.2015. It is relevant to note that the selection



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committee comprised representatives from the Directorate of Technical Education and also the government nominees. Murugesan was selected and he was issued with the appointment order on 17.11.2015. The management submitted proposal to the Director of Technical Education on 23.11.2015 for approval of the appointment. However, vide order dated 03.09.2016, the proposal was rejected on the ground that the appointee was over aged by two years. The maximum age limit set out in the recruitment notification as well as in the relevant special Rules was 36, whereas Murugesan was 38 at that time when he applied for the post.

3. Challenging the said order passed by the Director of Technical Education, the college management filed appeal before the Government. The Government subsequently informed the Director of Technical Education that there was no scope for relaxation of the age limit. This was intimated to the College management vide communication dated 11.09.2018 and also to the appointee on 12.11.2018. Questioning these two communications dated 11.09.2018 and 12.11.2018, the appointee filed W.P.(MD)No.16582 of 2019. The learned single judge set aside the orders impugned in the writ petition and allowed the same on



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09.01.2023. This order of the learned single Judge is the subject matter of this appeal.

4. The learned Special Government Pleader appearing for the State submitted that the learned single Judge erred in applying Rule 12(d) of Tamil Nadu State and Subordinate Service Rules for relaxing the age limit. Relying on the decision of the Hon'ble Division bench rendered in W.A.(MD)No.1562 of 2023 etc., batch dated 29.11.2023, he pointed out that when the Special Rules prescribe an age limit, it will prevail over and Rule 12(d) of Tamil Nadu State and Subordinate Service Rules will not have any application. He would also add that the writ petition itself had been defectively filed in as much as the original rejection order dated 03.09.2016 was not put to challenge. He called upon this Court to set aside the order passed by the learned single judge and allow this writ appeal.

5. Per contra, the learned Senior Counsel appearing for the College Management as well as the learned counsel appearing for the appointee submitted that the order passed in the writ petition deserves to be sustained.



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6. We carefully considered the rival contentions and went through the materials on record. We do endorse the submission of the learned Special Government Pleader that the writ petitioner ought to have questioned the rejection Order dated 03.09.2016. But on this technical ground, we do not want to non-suit the writ petitioner. As rightly pointed out by the learned Senior Counsel for the College management, when the entire issue is before us, we might as well overlook such considerations, more so when it concerns the livelihood of the writ petitioner.

7. The qualification as well as the other conditions for appointment are set out in G.O.(Ms).No.220, Higher Education (B1) Department, dated 06.07.2009. Rule 6(a) prescribes the maximum age limit for appointment of a skilled assistant at 36. However, the proviso to Rule 6(a) states that no age limit shall apply to persons falling under the rule 2(b) of the special rule. Rule 2(b) of the special rules states that members of the service shall also be eligible to be recruited direct to any category in the service appointment to which is made by direct recruitment. In other words, if the candidate is a member of Tamil Nadu



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Technical Educational Subordinate Service, the upper age limit would not apply to him. Admittedly, these Rules have been issued under Article 309 of the Constitution of India and are intended to apply to Government employees. However, appointment to posts in aided Technical Education Institutions are also governed by the Special Rules. When the Special Rules are applied to the private aided institutions, the terms set out in the Special Rules will have to acquire an appropriate meaning depending on the context. We therefore hold that a member of Tamil Nadu Technical Educational Subordinate Service would mean an in-service candidate of the concerned institution which issues the recruitment notification. This is because, an employee of a private aided institution cannot be a member of the Tamil Nadu Technical Educational Subordinate Service. Rule 2 (b) of the Special Rules will have to be understood and applied in the manner indicated above. Admittedly, Murugesan has been discharging the duties of a skilled assistant in the very same Institution since 24.03.2006. Since he is an in-service candidate, the upper age limit will not apply to him.

8.Looked at from this perspective, we are of the view that the refusal of the authority to approve the writ petitioner's appointment must



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be considered as unreasonable and arbitrary. When a proposal is

evaluated, all the relevant factors must be taken into account. The

authorities failed to note that Murugesan had been serving the aided

institution as an employee on consolidated pay and that he would fall

within the scope of the proviso to Rule 6(a) of the Special Rules. We are

now in 2026 and Murugesan has been serving the institution for 20

years. It is a sanctioned vacancy. Murugesan admittedly has all the

requisite qualifications. In fact, he is over qualified. There is no rival

claim. The selection was made by the committee which comprised the

representatives as well as the Government nominees. The Government

will not be put to any kind of financial loss. Though the vacancy falls

under general turn under priority category, there has been no application

from any person belonging to the priority category. No person has

challenged the appointment of Murugesan. Taking into account all these

equitable circumstances, we decline to interfere with the order of the

single Judge.



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WEB COPY 9. The Writ Appeal stands dismissed. No costs. Consequently,
connected miscellaneous petition is closed.

[G.R.S., J.] [R.P, J.]
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NCC : Yes / No
Index : Yes / No
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