

M. Joseph and ors. Vs. the District Educational Officer and ors.

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Court : Chennai

Decided On : Oct-12-2000

Reported in : (2001)1MLJ84

Appellant : M. Joseph and ors.

Respondent : The District Educational Officer and ors.

Judgement :

ORDER

V. Kanagaraj, J.

1. The petitioners have filed this writ petition praying to issue a writ of certiorarified mandamus calling for the records comprised in the proceedings of the first respondent in his D.Dis. No. 15993/A5/92, dated 3.11.1992 and that of the second respondent dated 28.10.1992 and quash the same and consequently direct the respondents to appoint any one of the petitioners according to their seniority as P.G. Assistant in Mathematics in the second respondent's school with all attendant benefits and privileges.

2. In the affidavit filed in support of the writ petition, the petitioners would submit that the first petitioner was appointed as B.T. Assistant in Mathematics on 1.6.1962 and the second petitioner on 6.10.1986 in the second respondent school: that their services were regularised and got appointed on permanent basis: that the first petitioner is working as Assistant Head Master in the second respondent

school.

3. The further pleadings of the petitioners in the writ petition are that consequent to the retirement of one E.Paul Chellathurai, a permanent vacancy arose to the post of Mathematics P.G. Assistant from 1.11.1992: that the second respondent appointed the third respondent in the permanent vacancy by proceeding dated 28.10.1992 to the said post: that the petitioners have to their credit 30 years and 6 years of service respectively: that the aforementioned order of the second respondent was approved by the first respondent by his D.Dis. No. 15993/A5/92, dated 3.11.1992 and that the petitioners are aggrieved by the aforesaid proceedings of respondents No. 1 and 2. On these facts and on grounds such as, (a) that the impugned proceedings are contrary to law and without jurisdiction: (b) that as per the provision of Rule 15(4)(ii) appointments to various categories of teachers should be made by making promotions from among the qualified teachers working in the same school and only if no suitable candidate is available, the school could resort to appoint an outsider: (c) that the respondent ought to have seen that the petitioners have expressed their willingness for promotion as P.G. Assistants since they were seniors in the same school and entitled to the preferential claim as per Rule 15 of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 (hereinafter referred to as the Rules): (d) that the respondents cannot resort to the method of direct recruitment which could be resorted to only as the last resort under Rule 15 of the Rules: and (e) that the respondents ought to have seen that the third respondent is only a raw graduate without any teaching experience and compared with the rich experience of the petitioners, there is absolutely no justification to resort to the direct recruitment and to appoint the third respondent, overlooking the experience and seniority of the petitioners. On such grounds, the petitioners would ultimately pray for the reliefs extracted supra.

4. In the counter-affidavit filed by the second respondent, admitting that the post of P.G. Assistant (Mathematics) fell vacant on 1.11.1992, this respondent would clarify that prior to the retirement of the then incumbent Paul Chellathurai, he went on a long leave and hence it had necessitated to appoint the third respondent in the leave vacancy created on 3.7.1991 itself: that the third respondent worked

upto 28.7.1992 with the approval of the first respondent. Therefore, the contention that the third respondent was appointed in violation of Rule 15(4) of the Rules is totally incorrect: that moreover, the third respondent was already working as a temporary hand in the school: that she got permanently appointed on 28.10.1992.

5. The further submissions of the second respondent are that notwithstanding the minority status of the school, the appointment of the third respondent was not in violation of any Rule and hence, no interference by this Court is required: that after the dismissal of the Second Appeal, again the first respondent took up the matter and held that the appointment of the third respondent require no reconsideration, and, therefore, the contentions raised by the petitioners that the school lost its minority status, and, therefore, the appointment of the third respondent is liable to be set aside is not correct: that as per Rule 15(4) of the Rules, while making such appointments, seniority is not the criteria, but it is only the merit and ability that should be taken into consideration whether it is for appointment or for promotion: that the third respondent is a holder of M.Sc. Mathematics and M.Ed, and in consideration of her academic qualification, this respondent appointed her as the P.G. Assistant in Mathematics. On such grounds, the second respondent would pray to dismiss the writ petition with costs.

6. In the reply affidavit filed by the second petitioner, she would submit that the first respondent gave a conditional approval to the third respondent stating that the appointment would be reconsidered based on the result of the appeal preferred by the Education Department in the District Court, Virudunagar against the decree made in O.S. No. 9 of 1991 dated 23.3.1992 by the trial court in which the second respondent had obtained declaration to the minority status of the institution and permanent injunction restraining and forbearing the said Education Department from enforcing the provisions of Tamil Nadu Act 29 of 1974: that as against the order of the first respondent dated 3.11.1992, the petitioners have filed this writ petition: that the appeal preferred by the Education Department in the District Judge's Court in A.S. No. 315 of 1993 was allowed on 21.7.1994 dismissing the suit filed by the second respondent in O.S. No. 9 of 1991.

7. The District Educational Officer, pursuant to the judgment in A.S. No. 315 of 1993, wrote to the second respondent that the appointment of the third respondent was deemed to be annulled and further directing to return the grant: that the second respondent preferred a second appeal in S.A. No. 1224 of 1994 against the judgment and decree of the District Court, Srivilliputhur, made in A.S. No. 315 of 1993 and obtained interim orders forbearing the first respondent from interfering with the administration of the institution: that ultimately, the second appeal in S.A. No. 1224 of 1994 was also dismissed confirming the judgment of the District Judge, dated 1.7.1997: that in view of the minority status having gone, the appointment of the third respondent also gets ipso facto annulled: that the third respondent since serving in the leave vacancy of Paul Chellathurai and not being a permanent appointee, her qualification cannot be compared with the petitioners who are permanent and seniors regarding promotion.

8. Moreover, it was only the conditional approval of the District Educational Officer that was granted: that the second respondent has not proved that no qualified and suitable candidates were available, as per the warranting Rule 15(4)(ii)(i), it ought to have obtained prior permission of the Chief Educational Officer: that the conditional approval of the third respondent dated 3.11.1992 by the District Educational Officer and for violation of Rule 15(4)(ii)(i), the continuation of the third respondent in the school is illegal, and, therefore, the appointment must be quashed and the second respondent to be directed to promote the second petitioner to the said post.

9. In the arguments advanced on the part of the learned Counsel for the petitioners, it would be contended that the permanent vacancy in the second respondent institution for the appointment of P.G. Assistant (Mathematics) arose on account of the retirement of the then incumbent, viz., Paul Chelladurai as on 1.11.1992: that the second respondent appointed the third respondent as P.G. Assistant on 2.11.1992 and this appointment was also formally approved by the District Educational Officer: that a suit in O.S. No. 9 of 1991 filed by the second respondent school for declaration that they were minority institutions and that the Government and Secretary (Education) shall not invoke the provisions of the Tamil Nadu Act 29 of 1974 and the same came to be decreed and the appeal preferred

by the Government in A.S. No. 315 of 1993 in the Court of District Judge, Srivilliputhur, was allowed on 21.7.1994; that the second appeal preferred on S.A. No. 1224 of 1994 by the second respondent institution also got dismissed upholding the judgment and decree of the first appellate court: that ultimately, the second respondent school has been declared not a minority institution: that there is no scope for the application of the minority privileges to the second respondent: that not only on merit, but also on seniority, the second petitioner should have been appointed since the first petitioner had retired.

10. On the contrary, the learned Counsel appearing on behalf of the second respondent would submit that according to Rule 15(4)(i) of the Rules, seniority will be considered if merit and ability are equal: that the third respondent having superior educational qualification than the petitioners, having M.Sc. Mathematics with M.Ed., she had been considered by the institution as meritorious candidate than the petitioners, and hence, the selection and appointment is beyond question: that the right of promotion is not automatically counting the seniority alone as per Rule 15(4)(ii)(i) of the Rules: that by the impugned order dated 3.11.1992, the appointment had been approved, challenging which the petitioners have come forward to file this writ petition stating that the very same person has reviewed the order.

11. The learned Counsel would cite a recent judgment of the Division Bench of this Court delivered in *M. Siluvai Raj an v. Director of School Education* : 2000(3)CTC242 , wherein Rule 15(4) of the Rules is considered. The relevant portion of the Judgment is extracted hereunder: The primary contention of the learned Counsel for the appellant is as per Rule 15(4), the teachers who are working in the school must be considered for the promotion and if no qualified and suitable candidates are available, then only the out side candidates can be selected. Hence without considering the eligibility of the appellant at the first instance, it is not open to the fourth respondent to call for the applications from the outsiders and consider the merits and demerits of all the candidates comparatively..If any better and suitable candidates are available, the management cannot be forced to give a promotion to the existing candidate by virtue of the seniority alone. Rule 14(4) makes it clear that the promotions shall be

made on grounds of merit and ability, seniority being considered only when merit and ability are approximately equal..We are not inclined to enter into those question as it is purely and academic one. We find that even assuming the Rules are applicable, the first respondent is better qualified person as found by the learned single Judge. When on merits, the fifth respondent found to be a better qualified person, that would be sufficient for us to dispose of the writ appeal. Hence we find no merits in the writ appeal and accordingly, the same is dismissed.

12. In consideration of the pleadings of parties and having regard to the materials placed on record and to the Tamil Nadu Recognised Private Schools (Regulation) Act and Rules, and upon hearing the learned Counsel for both, what is disclosed is that the writ petition has been filed challenging the appointment of the third respondent as the P.G. Assistant in Mathematics to the second respondent institution in preference to the petitioners. The petitioners contentions are that they are fully qualified to be appointed as the P.G. Assistant when the vacancy arose on account of the retirement of the incumbent, viz., Paul Chellathurai. It is the further contention of the Petitioners that when already qualified hands are available in the school, there is absolutely no necessity on the part of the second respondent to have gone outside-seeking-suitable hands for filling up the vacancy: that the petitioners are sufficiently equipped with experience also and while so, there is no necessity on the part of the second respondent to have gone into selecting the third respondent, who is an outsider besides being absolutely bereft of any experience at all. Moreover, according to them, the relevant provision of law embodied in Rule 15(4) of the Rules have not been complied with, but blatantly violated at the time of effecting the appointment of the third respondent to the post of P.G. Assistant in the second respondent school.

13. On the contrary, the writ petition would be stoutly opposed on the part of the second respondent on ground that the appointment of the third respondent was neither irregular nor improper: that the third respondent was head and shoulder superior to the petitioners, having acquired degrees in M.Sc. Mathematics and M.Ed., that initially, she got appointed only as a temporary candidate in the temporary vacancy that arose on the then incumbent Paul Chellathurai going on long leave prior to his retirement and on his retirement, when the vacancy arose,

she got inducted into as the permanent P.G. Assistant in Mathematics and it is not at all incumbent on the part of the second respondent School to appoint only from amount those qualified hands available within the school: that the promotions have to be made on merit and ability: that the seniority being considered only when merit and ability are approximately equal, and, therefore, the petitioners cannot claim that because they are seniors to the third respondent in service, they must be considered as against the merit and ability of the third respondent.

14. For easy approach of the controversy involved in the case, it is relevant to extract Rule 15(4) of the Rules which is as follows:

15(4)(i): Promotions shall be made on grounds of merit and ability, seniority being considered only when merit and ability are approximately equal.

(ii) Appointments to the various categories of teachers shall be made in the following methods:

(i) Promotion from amount the qualified teachers in that school:

(ii) if no qualified and suitable candidate is available by method (i) as above-

(a) appointment of other persons employed in that schools, provided they are fully qualified to hold the post of teachers:

(b) appointment of teachers from any other school:

(c) direct recruitment.

15. The claim of the petitioners is that they are having the merit and ability coupled with experience to be promoted to the post of P.G. Assistant (Mathematics) which fell vacant on 1.11.1992 in the second respondent school where they have already been working as B.T. Assistants (Mathematics). But, without considering one of them, the second respondent appointed the third respondent, who was, an outsider.

16. It is not at all the case of the respondents, especially that of the second respondent that either of the petitioners was not having the required qualifications

so as to be considered for being promoted as P.G. Assistant (Mathematics) or that they are in any manner suffering from any disqualification for not being considered for promotion. Their only contention is that in the leave vacancy created by the then incumbent Paul Chelladurai just prior to his retirement, the third respondent got appointed with the approval of the first respondent and thereafter, when the said Paul Chelladurai superannuated, the temporary appointment of the third respondent was made permanent, and, therefore, the contention that the third respondent was appointed in violation of Rule 15(4) of the Rules is incorrect on ground that the third respondent was already working as a temporary hand.

17. It comes to be known that the third respondent got appointed temporarily in the leave vacancy created from 3.7.1991 to 28.7.1992 and that her appointment had been made permanent by the proceedings of the second respondent dated 28.10.1992. The big question that is to be answered is that even while filling up the leave vacancy when it arose, what prevented the second respondent from considering one of the petitioners for that leave vacancy post? Absolutely no answer or explanation comes forth from the respondents. Therefore, the very theory put forth on the part of the second respondent that they appointed the third respondent in the temporary vacancy created with the approval of the first respondent and that there had been no violation of the Rules is false and unacceptable.

18. So far as the minority status of the second respondent School claimed is concerned, from the materials made available and from the arguments heard, it comes to notice that though the second respondent had been declared as a minority institution in the suit filed by them in O.S. No. 9 of 1991, thereafter, on appeal in A.S. No. 315 of 1993 and on second appeal in S.A. No. 1224 of 1994, the claim of the second respondent that it is a minority institution had been once and for all held against them and there is no point in wasting the time discussing the minority status of the second respondent and to approach the question of appointment from that angle will only be a waste. It is therefore safe to conclude that even under this pretext, the appointment of the third respondent cannot be justified.

19. Regarding the rules pertaining to such appointments extracted supra, Rule 15(4)(i) has been put in plain terms to the effect that the promotions shall be made on merit and ability, seniority being considered only when merit and ability are approximately equal. There is no doubt that the post of P.G. Assistant (Mathematics) is a promotional post. This Rule is dealing only with promotions, needless to mention, that such promotions could be effected from amongst the qualified teachers from the second respondent School itself: that the term 'promotion' cannot at all mean anyone being appointed afresh nor promoted from any other School to the second respondent School. Therefore, the petitioners' contention is that there was no necessity for a fresh appointment to be effected to fill up the promotional post of P.G. Assistant without caring to promote them on merit and ability and if need be, counting the seniority and experience. This aspect does not seem to have been taken care of by the second respondent while appointing the third respondent from outside and by the first respondent while approving the said appointment.

20. Rule 15(4)(ii) dealing with as to how the appointments to the various categories of Teachers shall be made would provide (i) by promotion from among the qualified teachers in that school, (ii) if no qualified and suitable candidate is available by method (i) as above, (a) appointment of other persons employed in that schools, provided they are fully qualified to hold the post of teachers: (b) appointment of teachers from any other school: and (c) direct recruitment.

21. According to the scheme of these Rules, the first choice for an institution while effecting such appointments to various categories of teachers is by promotion from among the qualified teachers available in that school in application of Rule 15(4)(ii)(i) of the Rules. Accordingly, the second respondent should have promoted either the first petitioner or the second petitioner or even any other qualified teacher, if available at that time from the second respondent institution: that only if no qualified or suitable teacher is available as contemplated under Sub-section (i) of Rule 15(4)(ii), then, Sub-section (ii) of Rule 15(4)(ii) would come into operation wherein it is clearly mentioned that if no qualified or suitable candidate is available by method under Sub-section (i) as above, the question of appointment of other persons employed in that school, or appointment of teachers from any other

school or by direct recruitment from outside would arise.

22. To clarify, Rule 15(4)(i) mandates that promotions shall be made on grounds of merit and ability, seniority being considered only when merit and ability are approximately equal. Two aspects that are to be considered here are (i) this Rule deals with promotion and (ii) while affecting the promotions, it shall be merit and ability that should be given prime consideration and seniority would come into play only when merit and ability are approximately equal.

23. No doubt, it is an admitted case on the part of the respondents that the post of P.G. Assistant in Mathematics which fell vacant on 1.11.1992 was a promotional post. According to this Rule, while considering the promotions, merit and ability should be given credence to and when merit and ability among the qualified hands for promotion is equal, seniority will be considered for making such promotions. It is relevant to discuss at this juncture as to among whom the merit and ability or the seniority shall be considered. Rule 15 deals only with the particular school for which the post is to be filled up and nothing else.

24. For instance, Rule 15(1) deals with qualifications and conditions of service of teachers and other persons. It is only the number of teachers and other persons employed in a private school that is considered under this Rule. Likewise, Rule 15(2)(i) dealing with the school committee contemplates only the school committee to every private school. Therefore, While dealing with Rule 15(4)(i), the criteria that is to be considered for promotion is only the merit and ability among the qualified teachers in the particular school for which the vacancy is to be filled up. There is absolutely no place for any other candidate outside the purview of the second respondent school to be thought of so far as these Rules dealing with the qualifications and conditions of service of teachers and other persons mentioned in these Rules are concerned unless otherwise provided for under the Rules.

25. Rule 15(4)(ii) deals with appointments to various categories of teachers which have to be made strictly in adherence to Rules 15(4)(ii)(i)(a), (b) and (c), Rule 15(4)(ii)(i) provides for appointments to be effected by promotion from other qualified teachers employed in that school. In application of this Rule to the case in hand, a plain reading of this Rule would make it clear that only from among those

qualified teachers available in the second respondent school, the appointment to the various categories of teachers should be made by promotion. This position is emphasised by the subsequent Rule in 15(4)(ii)(ii) which says that only if no qualified and suitable candidate is available for appointment of the teachers by promotion as envisaged under Rule 15(4)(ii)(i) and in exclusion of that choice on account of non-availability of qualified and suitable teachers from the particular school, then comes the question of considering Rule 15(4)(ii)(ii)(a) or (ii)(b) or (ii)(c) wherein under Sub Clause (a) the appointment of other persons employed in that school (from among the non-teaching staff) provided they are fully qualified to hold the post of teachers or (b) appointment of teachers from any other school, or (c) by direct recruitment are contemplated.

26. It is further relevant to point out that these Rules are mandatory in nature as revealed from the very language in which Rule 15(4)(ii) is couched. There is no room for the second respondent either to make use of its discretion in this regard or to give a different interpretation which would only mean acting in violation of the letter and spirit of these statutory Rules. To put in plain terms, when qualified teachers for appointment by promotion are available within the particular school to which such appointment is to be effected, thus giving effect to Rule 15(4)(ii)(i), management cannot think of making use of the other Rule 15(4)(ii)(ii). The definite case of the petitioners being that they are fully qualified for being considered to the post of P.G. Assistants (Mathematics) on promotion within the meaning of Rule 15(4)(ii)(i) and there is no question of the subsequent Rule 15(4)(ii)(ii) (a) or (b) or (c) to come into play since only for want of qualified teachers in the same school as required under Rule 15 (4)(ii)(i) and in exclusion of this choice, the next question of considering the appointment to be effected in accordance with Rule 15(4)(ii)(ii)(a) or (b) or (c) will arise. No further explanation need be necessary at this juncture to conclude that the second respondent, without giving effect to the Rules properly and in the order that they should be considered and without considering the petitioners who are fully qualified in all respects for being considered to be appointed as P.G. Assistants (Mathematics) on promotion, stepping out of the purview of the statutory Rules in appointing the third respondent, has violated the mandatory provisions of the statutory Rules and hence, the said appointment of the third respondent as P.G. Assistant directly from

outside without considering the case of the petitioners become only liable to be quashed, since her appointment would fall under the last choice, that is, Rule 15(4)(ii)(ii)(c).

27. The manner in which the third respondent got appointed is in exercise of Rule 15(4)(ii)(ii)(c) which is the last choice which could be exercised only in successive exclusion of the earlier choices provided for under Rule 15(4)(ii)(i), Rule 15(4)(ii)(ii)(a) and Rule 15(4)(ii)(ii)(b). If the rules, as per the scheme intended to be applied, have been applied by the second respondent in the filling up of the vacancy in the case in hand, one of the respondents would have got promoted as P.G. Assistant (Mathematics) in the second respondent school and the question of appointing the third respondent would not have arisen at all. The second respondent, simply neglecting the preferential choices, has jumped to the last choice forgetting the fact that in doing so, it has been circumventing the order of priority and in violation of the very intent of legislation of the rules, and hence, the appointment of the third respondent effected to the post of P.G. Assistant (Mathematics) in the second respondent's School as done in the impugned order and approved by the first respondent is not only irregular and improper, but also certainly in violation of the mandatory provisions of the Rules and the same becomes liable to be quashed.

28. Coming to the judgment of the Division Bench of this Court reported in *M. Siluvai Rajan v. Director of School Education* : 2000(3)CTC242 it is held therein that if any better and suitable candidates are available, the management cannot be forced to give a promotion to the existing candidate by virtue of the seniority alone. Rule 15(4)(i) contemplates that every promotion shall be made on grounds of merit and ability and seniority could be considered only when the merit and ability are approximately equal. Firstly, this rule deals only with promotions. Secondly, for making such promotions, the merit and ability are prescribed as the criteria and in case the qualified teachers are approximately equal in merit and ability, then the seniority will come into play. It should be noted that merit and ability and then the seniority as per this section are to be considered only in the case of promotions. By the term promotions, it is patent that only the qualified teachers available in the particular school could be considered since it is beyond

one's imagination to think of promoting anyone from another school or from outside. Therefore, the question of considering anyone other than those qualified teachers available in a particular school is not only out of scope and ambit of the Rules, but also impossible.

29. This position of promoting the qualified teachers considering their merit and ability and when the merit and ability amount themselves are approximately equal, considering the seniority is emphasised by the subsequent Rule 15(4)(ii)(i). which is also prescribing the mode of promotion stating that it should be only from among the qualified teacher in that school. Rule 15(4)(ii)(ii) prescribes as to when the authorities of the school could think of appointing anyone other than the teachers of that particular school stating that only if no qualified and suitable candidate is available by promotion from among the qualified teachers in that school itself, only then the question of the other choice from outside the purview of the qualified teachers of a particular school would arise and they are enumerated as Rules 15(4)(ii)(ii)(a), (b) and (c).

30. There is absolutely no room for the management to go away from the existing and available candidates for promotion in that school itself. The question of drawing from other schools or from outside, would arise only if no candidate who could be promoted to the post that has fallen vacant is available within the school itself as it is emphasised by the Rules. When qualified hands are available for promotion, the management is left with no choice but to promote the better merited and able handed teacher and in case many such qualified teachers are found to be equal in merit and ability, the senior most among them will be duly promoted. There is no iota of place to think that while qualified hands are available within the school itself, any one from outside the school could be appointed without promoting that teacher who is waiting for his/her chance to be promoted to the higher post under pretext that the outsider is better merited or qualified which is impermissible under the rules. In short, when qualified teachers are available in a particular school itself, there is absolutely no competition for them from outside regarding the merit and ability and then the seniority, since the comparison or competition is only from within and not from outside even if far better merited or qualified teachers are available from outside. The management has absolutely no

legal right to appoint anyone from outside in violation of the rules.

31. In the case in hand, the petitioners have not only declared that they are qualified to be promoted to the post of P.G. Assistant (Mathematics) which' fell vacant, but also have made representations to the authorities of the second respondent, but they were not at all considered. Therefore, without considering the merit and ability of the petitioners for being promoted to the post of P.G. Assistant (Mathematics) in the second respondent school neglecting the petitioners and circumventing the law, the appointment of the third respondent effected to the said post by the second respondent school is definitely in violation of the statutory rules and the same cannot be justified in any manner.

32. The interpretation given by the Division Bench of this Court in its judgment reported in *M. Siluvai Raj an v. Director of School Education : 2000(3)CTC242* , is quite contrary to the Rules, and with great respect, this Court expresses its inability to follow the said judgment to decide the case in hand since according to the Rules, the teachers who are working in the school must be considered for promotion and only if no qualified and suitable teacher or other persons employed in the particular school are available, question of appointing teachers from other schools or from outside will arise. Therefore, without considering the eligibility of the petitioners, at the first instance, for appointing anyone of them to the post of P.G. Assistant which fell vacant, it is not open for the second respondent to consider an outsider, the third respondent and to appoint her to the said post. Needless to mention that the approval granted by the first respondent ratifying the appointment of the third respondent as P.G. Assistant is also not sustainable in law.

33. For all the above discussions held, the petitioners become entitled to the relief sought for in the writ petition. Since it comes to be known that the first petitioner had retired from service as early as on 5.10.1995, the second petitioner alone is left with in the field who becomes eligible to be promoted and posted as the P.G. Assistant in the second respondent school with effects from 2.11.1992 when the said post fell vacant.

34. In result, the above writ petition succeeds and the same is allowed. The proceeding of the first respondent comprised in D.Dis. No. 15993/A5/92, dated 3.11.1992 and that of the second respondent dated 28.10.1992 are hereby quashed. Consequently, it is declared that the second petitioner is deemed to have been promoted and posted as P.G. Assistant in Mathematics in the second respondent school with effect from 2.11.1992 with all attendant benefits and privileges.

35. However, in the circumstances of the case, there shall be no order as to costs.

36. Consequently, W.M.P. Nos. 718 and 24363 of 1995 are closed.

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