

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 6382 OF 2012**

**UNION OF INDIA  
EDUCATION DEPARTMENT  
GOVERNMENT OF PUDUCHERRY  
THROUGH THE SECRETARY  
TO GOVE AND ANR.**

**Appellant(s)**

**VERSUS**

**MATTAPARTHY VENKATA  
RATNA PRASANNA & ORS.**

**Respondent(s)**

**O R D E R**

1. The Union of India and Director of School Education, Government of Puducherry are in appeal against the decision of the High Court of Judicature at Madras dated 07.09.2011 in Writ Petition No. 16235 of 2011, which is filed against the decision of the Central Administrative Tribunal (for short "the Tribunal") in O.A. No. 927 of 2009 dated 22.04.2010.

2. In a recruitment for the post of Secondary Grade Teacher under the Government of Pondicherry, Secondary Grade Teachers Recruitment Rules 1998,

provided for deduction of 5% marks for every additional attempt to pass the examination. As the respondent had made an earlier attempt, 5% marks were deducted from her aggregate and as a consequence, she came out of the select list. However, in an OA filed by one other candidate Bezawada Kiran Kumar, the Central Administrative Tribunal, Madras Bench by its judgment dated 19.11.2001, held that the Government has no power to award negative marks. The Writ Petition filed by the Government against this order was disposed of on 06.11.2007 without examining the matter as the said Bezawada Kiran Kumar got selected in the subsequent recruitment.

3. Nine years after the deletion from the select list, the respondent filed the Original Application No. 927 of 2009 before the Central Administrative Tribunal, Madras for a direction to give appointment to him as a Secondary Grade Teacher.

4. The provocation of filing the OA is only that similarly placed employees (Bezawada Kiran Kumar), who were not given employment, had filed an

Original Application before the Tribunal challenging their non-selection and the Tribunal allowed the Original Application by its order dated 19.11.2001 and also that the Government's writ petition against the directions of the Tribunal was also disposed of on 06.11.2007.

5. It is clear that only after the above referred decision of the High Court in the year 2007, that too after a period of two years from the date of the judgment that the respondent chose to file the Original Application in the year 2009. The Original Application was routinely allowed by the High Court on the ground that it is covered by the earlier orders dated 19.11.2001 passed by the Tribunal.

6. The writ petition filed by the Union of India also met with the same fate. The High Court by the order impugned, held that the case is covered by an earlier order dated 06.11.2007 and allowed the writ petition and disposed of the Original Application.

7. When the matter came up for hearing, we enquired from Shri Aravindh S., learned counsel as to whether the decision of the High Court was

implemented as we did not have the benefit of hearing the respondent or her advocate, as none appeared before us. The office report, however, states that the service is complete.

8. Shri Aravindh S., learned counsel for the Union/State took instructions and informed us that the respondent had not been appointed. Perhaps that is the reason, why she is not represented before us.

9. This is a case where the respondents' cause of action arose in the year 2000 due to non-appointment by applying the principle of 5 per cent negative mark. If the cause of action had arisen in the year 2000, filing of the Original Application in the year 2009 is clearly barred by laches.

10. The Tribunal entertained the Original Application and allowed the same only because of the fact that similarly placed individual cases were accepted by its earlier order dated 19.11.2001.

11. We are of the opinion that the Tribunal could not have been entertained the Original Application after a lapse of 9 years and should have dismissed

the Original Application on that very ground. The similar mistake was committed by the High Court when it dismissed the writ petition filed by the Union of India.

12. Having considered the matter, we are of the opinion that the decisions of the Tribunal and that of the High Court are unsustainable.

13. We, therefore, set aside the impugned judgment and order of the High Court in Writ Petition No. 16235 of 2011 dated 07.09.2011 and also the judgment of the Central Administrative Tribunal in O.A. No. 927 of 2009 dated 22.04.2010.

14. In view of the above, the appeal is allowed. No order as to costs.

15. Pending application, if any, stands disposed of.

.....J  
(PAMIDIGHANTAM SRI NARASIMHA)

.....J  
(MANOJ MISRA)

New Delhi  
August 10, 2023

ITEM NO.102

COURT NO.16

SECTION XII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 6382/2012

UNION OF INDIA AND ANR.  
EDUCATION DEPARTMENT  
GOVERNMENT OF PUDUCHERRY  
THROUGH THE SECRETARY TO GOVE

Appellant(s)

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MATTAPARTHY VENKATA RATNA PRASANNA &amp; ORS.

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Date : 10-08-2023 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA  
HON'BLE MR. JUSTICE MANOJ MISRA

For Appellant(s)

Mr. Aravindh S., AOR  
Mr. Abbas, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

1. The appeal is allowed in terms of the signed order.
2. Pending applications, if any, stand disposed of.

(DEEPAK SINGH)  
COURT MASTER (SH)

(ANJU KAPOOR)  
COURT MASTER (NSH)

[Signed order is placed on the file]