

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2016

Reserved on : 21.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.Nos.9934 to 9937 of 2015
and 12846 of 2015
and M.P.Nos.1 and 2 of 2015
in W.P.No.12846 of 2015

R.Rajadurai ...Petitioner in W.P.No.9934/15
T.R.Krishnamoorthy ...Petitioner in W.P.No.9935/15
P.Kumar ...Petitioner in W.P.No.9936/15
S.Jayakumar ...Petitioner in W.P.No.9937/15
K.Nallasivan ...Petitioner in W.P.No.12846/15

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary,
Education Department,
Secretariat, Chennai - 9.

... Respondent No.1 in all W.Ps

2. The Joint Director of School Education,
(Secondary Education),
College Road, Chennai - 6.

3. The Chief Educational Officer,
Trichy District.

4. The District Educational Officer,
Trichy District.

5. The Secretary,
Boys Higher Secondary School,
Srirangam, Trichy District.

.. Respondents Nos.2 to 5 in W.P.
Nos.9934 to 9937 of 2015

2. The Director of Elementary Education,
College Road, Chennai.

3. The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.

.. Respondent Nos.2 and 3 in W.P.
No.12846 of 2015

Prayer in W.P.No.9934 of 2015 : Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus to call for the entire records connected with the impugned proceedings passed by the second respondent vide Na.Ka.No.101141/D2/E2/2013, dated 13.12.2013, and quash the same and direct the respondents to approve the appointment of the petitioner with effect from 25.03.1998, as Secondary Grade Teacher with all consequential benefits.

Prayer in W.P.No.9935 of 2015 : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the entire records connected with the impugned proceedings passed by the second respondent vide Na.Ka.No.101142/D2/E2/2013, dated 13.12.2013, and quash the same and direct the respondents to approve the appointment of the petitioner with effect from 27.03.1997, as Secondary Grade Teacher with all consequential benefits.

Prayer in W.P.No.9936 of 2015 : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the entire records connected with the impugned proceedings passed by the second respondent vide Na.Ka.No.101143/D2/E2/2013, dated 13.12.2013, and quash the same and direct the respondents to approve the appointment of the petitioner with effect from 10.03.1998, as Secondary Grade Teacher with all consequential benefits.

Prayer in W.P.No.9937 of 2015 : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the respondents to approve the appointment of the petitioner with effect from 02.06.1997, as Secondary Grade Teacher with all consequential benefits in the light of the order passed in W.P.No.9072 of 2005, dated 19.12.2007.

Prayer in W.P.No.12846 of 2015 : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the entire records pursuant to the impugned G.O.Ms.No.155, School Education (D2) Department, dated 03.10.2002, issued by the first respondent herein to quash the same insofar as the

clause (iii) and clause (viii) are concerned and consequently to direct the respondents to approve the appointment of the petitioner and continue in service in the sanctioned post and to pay the salary from 24.11.1997 to 24.06.2005 to the petitioner along with the pension benefits.

For Petitioners in : Mr.K.M.Vijayan, Senior Counsel
W.P.Nos.9934 to for Mr.S.N.Ravichandran
9937 of 2015

For Petitioner in : Mr.M.Saravanakumar
W.P.No.12846/2015

For Respondents in : Mr.V.Jayaprakash Narayanan,
all the W.Ps. Special Government Pleader

C O M M O N O R D E R

The petitioners did not possess qualification for appointment to the post of Secondary Grade Teacher, but they possessed qualification for appointment to the post of B.T. Assistant. Based on their B.Ed., qualification, they were appointed as Secondary Grade Teachers in the respondent Aided Schools. Their date of appointments as Secondary Grade Teachers are given, as hereunder :

Sl. No.	W.P.No.	Name of the Petitioner	Date of appointment
1	9934/15	R.Rajaduari	25.03.1998
2	9935/15	T.R.Krishnamoorthy	27.03.1997
3	9936/15	P.Kumar	10.03.1998
4	9937/15	S.Jayakumar	02.06.1997
5	12846/15	K.Nallasivan	09.12.1996

2. The Government issued G.O.Ms.No.559, Education, Science and Technology Department, dated 11.07.1995, directing the educational authorities not to approve the appointment of B.Ed., teachers in the Secondary Grade Teacher vacancies.

3. Prior to 11.07.1995, the Government permitted the Aided Schools to appoint B.T. Teachers in the Secondary Grade Teacher vacancies due to the non-availability of the candidates with Diploma in Teachers Education (D.T.Ed.) qualification for appointment to the post of Secondary Grade Teachers. Later, when the candidates were available, the aforesaid G.O.Ms.No.559, dated 11.07.1995, was issued.

4. Further, there were non-availability of candidates belonging to Scheduled Caste / Scheduled Tribe, with D.T.Ed., qualification for appointment to the post of

Secondary Grade Teacher. Hence, the Government issued G.O.Ms.No.113, School Education Department, dated 14.03.1997, permitting the appointment of Graduates Assistants belonging to Scheduled Caste/Scheduled Tribe categories in the post of Secondary Grade Teacher. However, a condition was stipulated that these persons should undergo "Child Psychology Training" before the appointment.

5. The said G.O.Ms.No.113, dated, 14.03.1997, was extended to the schools under the Adi Dravidar and Tribal Welfare Department, by issuing G.O.Ms.No.63, Adi Dravidar and Tribal Welfare Department, dated 01.04.1997.

6. In the said circumstances, the Government issued another G.O.Ms.No.122, Adi Dravidar and Tribal Welfare Department, dated 02.08.2005 to regularise those Scheduled Caste candidates, who were possessing B.Ed., qualification and appointed to the post of Secondary Grade Teacher, from the date of their initial appointment taking into account that they underwent Child Psychology Training, after their appointment.

7. Even after the issuance of aforesaid G.O.No.559, dated 11.07.1995, the Aided Schools continued to appoint B.T. Teachers in Secondary Grade Teacher vacancies. Hence, the Government did not approve those appointments and grant was not sanctioned towards the salary for those teachers. Hence, those persons were paid with a meagre salary by the managements of those Aided Schools.

8. The appointment of the petitioners herein were also not approved by the Government and grant was not sanctioned, as they were appointed after the issuance of G.O.Ms.No.559, dated 11.07.1995. That is, they were appointed after 11.07.1995.

9. In those circumstances, a batch of writ petitions were filed by various aided schools questioning the G.O.Ms.No.559, dated 11.07.1995, since the approval of appointment of B.Ed., Teachers in the Secondary Grade Teacher vacancies was not made by the educational authorities.

10. It was contended by the aided schools in those writ petitions before this Court that B.Ed., teachers possess higher qualification and hence, the Government was not correct in issuing a direction not to grant approval for appointment of B.Ed. Teachers in the Secondary Grade Teacher vacancies.

11. But the Government took a stand in those writ petitions that B.Ed., qualification is not a higher qualification, but a different qualification. According to the Government, B.Ed., teachers could teach higher classes, while

the Secondary Grade Teachers are trained to teach the lower classes. It was pointed out particularly by the Government that the Secondary Grade Teachers are trained in child psychology.

12. Accepting the contention of the Government, the batch of writ petitions questioning G.O.Ms.No.559, dated 11.07.1995, was dismissed by a learned Single Judge on 19.05.1998.

13. Writ Appeal Nos.991-998/1998 etc.batch were filed against the aforesaid common order dated 19.5.1998 of the learned Single Judge.

14. The writ appeals were rejected by a Division Bench of this Court on 29.06.2001 and the said judgment is reported in 2002 Writ L.R. 173 (Secretary & Correspondent, Uswathun Hasana Oriental (Arabic) Girls Higher Secondary School V. The State of Tamil Nadu rep. by its Secretary, Education Department and Others). However, a concession made by the then learned Additional Advocate General was recorded to the effect that B.Ed. teachers, who were appointed in the Secondary Grade Teacher vacancies before 19.05.1998, the date of dismissal of the batch of writ petitions by the learned Single Judge, would be regularized in services after giving them "Child Psychology Training" for a period of a month.

15. Thus, though writ appeals were dismissed upholding the order of the learned single Judge, as stated above, the Division Bench protected the services of the B.Ed., teachers, who were appointed before 19.05.1998 in the Secondary Grade Teacher vacancies. Later, the Government protected the services of the B.Ed. Teachers appointed in the Secondary Grade Teacher vacancies upto 29.06.2001, the date of the judgment of the Division Bench in the batch of writ appeals in W.A.Nos.991 to 998 of 1998 etc. reported in 2002 Writ L.R. 173.

16. The Division Bench also noted that the appointment of more than 90% of B.Ed. qualified teachers in the Secondary Grade Teacher vacancies prior to 19.05.1998, was not approved, and thus, they only received bare minimum salaries at the mercy of the managements. In this regard, it is relevant to extract paragraph 25 of the judgment in 2002 Writ L.R. 173 as hereunder :

"25. There can be no doubt that the results would be devastative at least for those who have to lose their jobs after teaching for years together. The ensuing dismissal would also add insult to the injury as in most of the cases these teachers are serving for meagre salaries.

It has been pointed out to us by all the learned

counsel that only few of these teachers are able to get the salaries on account of the approval given by the Government but over 90% of these teachers are such whose appointments have not been approved. With the result, they get bare minimum salaries and/or at the mercy of the Managements."

17. The Government issued G.O.Ms.No.155, School Education (D-2) Department, dated 03.10.2002, in terms of the concession made by the learned Additional Advocate General before the Division Bench, while disposing W.A.Nos.991 to 998 of 1998 etc. batch by the order dated 29.06.2001, reported in 2002 Writ L.R. 173.

18. The Government Order has provided for sending the B.Ed., teachers, who were appointed in the Secondary Grade Teacher vacancies, to undergo child psychology training for a month and on completion of such a training, their services would be approved and the Government would sanction grant towards their salary.

19. W.A.Nos.249, 282, 448 to 452 of 2002 and 80 of 2004 and W.P.Nos.42067 of 2002 etc. batch were filed challenging the validity of aforesaid G.O.Ms.No.155, dated 03.10.2002 in part or in whole, and those writ appeals and writ petitions were heard by a Division Bench. It was argued before the Division Bench that the B.Ed. teachers, who were appointed in the Secondary Grade vacancies, shall be paid full salary from the date of their initial appointment and not from the date of completion of one month Child Psychology Training, since they rendered services in the post of Secondary Grade Teachers. It was also argued that the Government was not correct in ordering recovery of the salary paid to some of those teachers, who received salary. It was further argued that the past services rendered prior to approval, after child psychology training, pursuant to G.O.Ms.No.155 could also be taken into account for pensionary benefits and also for other benefits.

20. The Division Bench in the judgment dated 02.04.2004 reported in 2004-2 L.W. 591 (The State of Tamil Nadu and Others V. Pallivasal Primary School, rep, by its Correspondent, Mudukulathur), while disposing those writ appeals and writ petitions (W.A.Nos.249, 282 and 448 to 452 of 2002 and W.P.Nos.42067 of 2002 etc. batch), held that wherever salary was paid by the Government to the B.Ed. teachers, who were appointed against Secondary Grade Teacher vacancies contrary to G.O.Ms.No.559, recovery shall not be made.

21. At this juncture, it is relevant that the earlier Division Bench, in paragraph 25 of the judgment dated

29.06.2001 in W.A.Nos.991 to 998 of 1998 etc. batch, (2002 Writ L.R. 173), noted that such teachers only constituted less than 10%, i.e., more than 90% appointment of such B.Ed., teachers, who were appointed against the Secondary Grade Teacher vacancies, were not approved.

22(i). The Division Bench in the judgment reported in 2004-2 L.W. 591 held that the direction given by the Government towards recovery of salary could not be made. The Division Bench also held in categorical terms in paragraph 8 of that judgment that the approval of appointment of those B.Ed. teachers in the Secondary Grade Teacher Vacancies could only be made after the date, the teachers completed one month child psychology training. Thus, the Division Bench held that they are not entitled to salary from the date of their initial appointment, till their appointments are approved after one month Child Psychology Training.

22(ii). However, the Division Bench held that their past service shall be counted for the purpose of pension only.

23. In this regard, paragraph 8 of the judgment in 2004-2 L.W. 591 is extracted hereunder :

"8. Their right to be regarded as persons eligible for confirmation/approval can be said to arise only after they acquired, after their training, a minimum prescribed qualification. The Government here has shown great concession to them by allowing them to retain their position even without obtaining the requisite diploma or certificate in child psychology by giving to them training in child psychology. We see nothing wrong in the Government directing that their approval / confirmation can only be on and after the date they complete the training. Their past service however shall count for pension."

24. The Division Bench also held in categorical terms in paragraph 10 of the said judgment in 2004-2 L.W. 591 that the Government cannot be directed to shoulder the liability to pay salary to such persons and the State was not under any obligation to pay salary to persons who were not qualified and who have been appointed contrary to Government Order, while holding that the recovery shall not be made, wherever salary was paid erroneously.

25. Paragraph 10 of the judgment in 2004-2 L.W. 591 is extracted hereunder in this regard :

"10. A submission was also made for some of those among the appellants / petitioners that they have not been paid salary by the

State. The State was not under any obligation to pay salary to persons who were not qualified and who have been appointed contrary to Government Order. Such persons must have been paid some amount by the management who employed them. Government cannot be directed to shoulder that liability for payment to such persons and in cases where payment had not been made. What has been said by us in relation to the persons who had received salary and recovery from whom has been held by us to be unwarranted, would apply to the Government as well as any direction to it to pay salary to a large number of such persons who did not, at the relevant time, possess the prescribed qualification, would result in a huge burden being imposed on the Government even when it had committed no wrong."

26. Based on the aforesaid G.O.Ms.No.155, dated 03.10.2002, the petitioners herein were sent for child psychology training and the appointments were approved from 01.06.2003 in the case of petitioners in W.P.Nos.9934 to 9937 of 2015 and from 02.06.2003 in the case of the petitioner in W.P.No.12846 of 2015, on completion of one month Child Psychology Training.

27. While so, the petitioners in W.P.Nos.9934 to 9937 of 2015 sent representations dated.NIL through registered post to the respondents to pay salary from the date of their initial appointment till 01.06.2003, the date on which their appointments were approved and grant was sanctioned. They placed reliance on G.O.(3D)No.117, School Education Department, dated 11.09.2012, and also G.O.Ms.No.122, Adi Dravidar and Tribal Welfare Department, dated 02.08.2005.

28. The aforesaid representations of the petitioners in W.P.Nos.9934 to 9936 of 2015 were rejected by the individual orders dated 13.12.2013 by the Joint Director of School Education, Chennai, relying on G.O.Ms.No.155, School Education Department, dated 03.10.2002. No order is passed on the representation submitted by the petitioner in W.P.No.9937 of 2015.

29. Thereafter, the petitioners filed the present W.P.Nos.9934 to 9936 of 2015 questioning the aforesaid orders dated 13.12.2013 and for a consequential direction to the respondents to approve their appointments as Secondary Grade Teachers from the date of initial appointment with all consequential benefits and the petitioner in W.P.No.9937 of 2015 seeks a direction to the respondents to approve his

appointment from the date of initial appointment, that is, the crux of the prayers is to pay salary to them from the date of initial appointment and till approval, on completion of one month Child Psychology Training.

30(i). While the prayer in paragraph 19 of the affidavit filed in support of W.P.No.12846 of 2015 is to quash Clause (iii) and (viii) of G.O.Ms.No.155, dated 03.10.2002, and also for a consequential direction to approve the appointment of the petitioner and continue in service in the sanctioned post and to pay salary from the date of appointment, namely, from 09.12.1996 to 02.06.2003, the consequential prayer in the said writ petition is for payment of salary from 09.12.1996 to 24.06.2005.

30(ii). The proceedings of the District Elementary Educational Officer, Tirunelveli, dated 20.09.2003 in Na.Ka.No.3265/A4/2002, is enclosed at page No.4 of the typed-set of papers in W.P.No.12846 of 2015 and as per the said proceedings, the petitioner was regularised in service from 02.06.2003, on completion of one month Child Psychology Training. Therefore, the petitioner was paid a regular salary from 02.06.2003 by the educational authorities.

31. Heard both sides.

32(i). The learned Senior Counsel for the petitioners submitted that the petitioners are also entitled to salary from the date of initial appointment till they were regularized in service after undergoing one month Child Psychology Training.

32(ii). The learned Senior Counsel for the petitioners and the learned counsel for the petitioner in W.P.No.12846 of 2015 relied on G.O.(3D).No.117, School Education Department, dated 11.09.2012 and also G.O.Ms.No.122, Adi Dravidar and Tribal Welfare Department, dated 02.08.2005 in support of their submissions.

32(iii). They also relied on the following judgments :

1. The order dated 02.11.2006 in W.P.(MD)No.1664 of 2005 ;
2. The order dated 19.12.2007 in W.P.(MD)No.9072 of 2005 ;
3. The order dated 03.11.2008 in W.P.No.16383 of 2000 ;
4. The order dated 01.10.2009 in M.P.(MD) No.1 of 2009 in W.A.(MD)No.11055 of 2009 confirming the order dated 19.12.2007 ;
5. The order dated 17.06.2010 in W.P.No.7122 of 2010 ;
6. The order dated 09.07.2010 in W.P.No.4310 of 2003 ;
7. The order dated 22.01.2013 in W.P.Nos.19821 of 2003, 11443, 12095, 12317, 12318 of 2005 and

the order dated 30.04.2014 in Review Application Nos.136, 137 and 138 of 2014 seeking to review the common order dated 22.01.2013.

8. The order dated 28.01.2013 in W.P.No.4226 of 2006 ;
9. The order dated 03.11.2014 in W.P(MD)No.17644 of 2014 ; and
10. The order dated 23.12.2014 in W.P.Nos.33245 to 33248 of 2014.

33(i). On the other hand, learned Special Government Pleader submitted that the entire issue was decided by two Division Bench judgments, namely, in 2002 Writ L.R. 173 and 2004-2-L.W. 591. In those judgments, it was noted in categorical terms that hundreds of B.Ed., Teachers, who were appointed by the Aided Schools as Secondary Grade Teachers contrary to G.O.Ms.No.559, dated, 11.07.1995, were sent for Child Psychology Training for one month and their appointments were approved, on completion of the Child Psychology Training and they were granted salary only as per G.O.Ms.No.155, dated 03.10.2002, and the Division Bench judgment in 2004-2-L.W. 591.

33(ii). The learned Special Government Pleader also submitted that G.O.(3D)No.117, dated 11.09.2012, was issued to implement the order dated 03.11.2008 in W.P.No.16383 of 2000. This Court, taking note of the facts and circumstances and also placing reliance on a judgment of the Division Bench of this Court dated 20.03.2007 in W.A.No.442 of 2007, wherein it is held that G.O.Ms.No.155, School Education Department, dated 03.10.2002 is not applicable to the appointment of Headmistress in a Primary School, held in the order dated 03.11.2008 in W.P.No.16383 of 2000 that the G.O.Ms.No.155, is not applicable to Headmistress. The learned Special Government Pleader relied on paragraph 4 of the said order dated 03.11.2008 in this regard.

33(iii). Likewise, the learned Special Government Pleader submitted that I had an occasion to consider the entire issue, including G.O.Ms.No.117 in my order dated 23.07.2013 in W.P.Nos.19920 to 19925 of 2013 and rejected a similar claim of teachers for payment of salary from the date of their initial appointment till their regularization, pursuant to the aforesaid judgments of the Division Benches in 2002 Writ L.R. 173 and 2004-2-L.W. 591. Therefore, the learned Special Government Pleader submitted that the other judgments of the learned Single Judges cannot be relied on by the learned counsel for the petitioners and it cannot prevail over the Division Bench judgments, and according to him, those Division Bench judgments were not brought to the notice of the learned Single Judges.

33(iv). The learned Special Government Pleader submitted that G.O.Ms.No.122, Adi Dravidar an Tribal Welfare

Department, dated 02.08.2005 and the order dated 17.06.2010 in W.P.No.7122 of 2010 and the order dated 28.01.2013 in W.P.No.4226 of 2006 could not be relied on by the learned counsel for the petitioners, since in those judgments, the concerned petitioners therein belonging to Scheduled Caste and in the case of Scheduled Caste, the Government issued various Government Orders, namely, G.O.Ms.No.113, School Education Department dated 14.03.1997 and G.O.Ms.No.63, Adi Dravidar and Tribal Welfare Department, dated 01.04.1997, G.O.Ms.No.301 School Education Department, dated 15.10.1999 and G.O.Ms.No.122, Adi Dravidar and Tribal Welfare Department, dated 02.08.2005, granting permission for appointment of B.Ed., qualified persons belonging to Scheduled Caste in Secondary Grade Teachers posts and those candidates are entitled to approval from the date of their initial appointment. Those Government Orders were issued in view of non-availability of SC/ST candidates with requisite qualification for appointment to the post of Secondary Grade Teachers and hence, persons with B.Ed., qualification in SC/ST categories were permitted to be appointed in the post of Secondary Grade Teachers.

34. I have considered the submissions made by either side.

35. The Aided Schools in the State of Tamil Nadu were permitted to appoint B.Ed., teachers in Secondary Grade Teacher vacancies before 11.07.1995, due to the non-availability of the candidates with D.T.Ed., qualification. When the candidates were available with D.T.Ed. qualification, the Government issued G.O.Ms.No.559, Education, Science and Technology Department, dated 11.07.1995, stating that the B.Ed., candidates cannot be appointed in Secondary Grade Teacher posts and in those cases approval of appointment will not be granted.

36. As stated above, the aforesaid G.O.Ms.No.559, dated 11.07.1995, was questioned and the same was upheld by a learned Single Judge. The arguments of the Aided Schools that B.Ed. candidates possess higher qualification was rejected by the learned Single Judge and it was held that B.Ed., qualification is a different qualification and not higher qualification and B.T. Teachers could teach only higher classes, while the Secondary Grade Teachers are trained to teach lower classes, since they have been imparted Child Psychology Training.

37. Against the order of the learned Single Judge, W.A.Nos.991 to 998 of 1998 etc. batch were filed. The writ appeals were rejected by the Division Bench by the judgment dated 29.06.2001 and the said judgment is reported in 2002

Oriental (Arabic) Girls Higher Secondary School V. The State of Tamil Nadu rep. by its Secretary, Education Department and Others). However, the concession was made by the then Additional Advocate General that the teachers appointed from 11.07.1995 to 19.05.1998, the date of dismissal of the batch of writ appeals and writ petitions, could be trained in Child Psychology in order to protect those teachers.

38. In fact, the aforesaid history is dealt with in detail in the earlier paragraphs of this order. Subsequently, the Government issued G.O.Ms.No.155, School Education Department, dated 03.10.2002, in terms of the judgment of the Division Bench in 2002 Writ L.R. 173, more particularly, based on the concession given by the then Additional Advocate General, that was recorded by the Division Bench in that judgment.

39. The G.O.Ms.No.155, School Education Department, dated 03.10.2002, categorically stated that the salary could not be paid to the teachers from the date of their initial appointment, till their regularization were approved after one month Child Psychology Training. G.O.Ms.No.155 also stated that the service from the date of their initial appointment, till they underwent one month Child Psychology Training shall not be counted even for pension.

40(i). It is relevant to extract G.O.Ms.No.155, dated 03.10.2002, as hereunder :

"SCHOOL EDUCATION (D-2) DEPARTMENT

G.O. Ms. No: 155 Dated : 3.10.2002

Read :

1. G.O.Ms.No: 559 Education dated 11.7.95

2. G.O.Ms.No. 203 Education dated 19.3.96

3. G.O.Ms.No. 394 School Education dated 12.9.97

4. Order in W.P. No. 6388/98 batch judgment of the High Court, dated 19.5.98.

5. Order in W.A. No: 991 to 998/98, etc. Batch Judgment of the Division Bench dated 29.6.2001

6. Proceedings of the Director of Ele. Education issued in letter Na.Ka.21523/EG4/2001 dated 27.7.2001.

7. Proceedings of the Director of School Education, issued in Na.Ka.No. 689/D3/99 dated 10-3-99, 10-9-99 and 9-10-2001.

ORDER:

In the G.O. first read above orders were issued based on the High Court order that B.Ed teachers shall not be appointed in Secondary Grade vacancies. In the order second cited, permission was granted to approve the appointment made till the issue of G.O.Ms.No.559, Education, dated 11.07.1995 subject to their appointments are otherwise in order and further orders if any by the Court in any pending case. In the G.O. third read above the condition was extended to High School and Higher Secondary Schools also. The writ petitions were filed challenging G.O.Ms.No.559 dated 11.07.1995 and G.O.Ms.No.394 dated 12.09.1997 (W.P.No.6388/98 etc.) and the same was dismissed by the High Court, Madras. Writ Appeals were preferred before Division Bench and final order was passed on 29.06.2001 with following directions :

"We appreciate the stand taken by the learned Additional Advocate General, which is a pragmatic stand and has an unshakable base of experience. In order to avoid an undue hardship to these teachers who have been serving for years together in the lower classes even after studying for a graduation degree that too on meager salaries, it will be better if an exercise is taken for the confirmation of these teachers. The modalities of which may be decided by the State Government. The State Government may decide to give the practical training or may even choose to individually examine each case on its own merits. There may be individual cases where the Management was absolutely justified in employing a graduate teacher and there could be others where there was no such justification. We do not wish to draw the details and leave it to the State Government. However, the State Government shall take up this exercise as we have indicated above providing relief to at least such teachers who have been inducted prior to the dismissal of the Writ Petitions before the learned single Judge. We direct accordingly while dismissing the appeals and the writ petitions. No costs."

2. In compliance with the Division Bench Order dated 29.6.2001 reports were received from the

Director of School Education and the Director of Elementary Education for approving the B.Ed.. and Tamil Pandits appointed in Secondary Grade vacancies.

3. After careful consideration of the same by the Government following order is passed :

i) B.Ed. Graduates and Tamil Pandits appointed in sanctioned regular posts from 11-7-95 to 19-5-98 in Minority and non-minority primary, middle, High and Higher Secondary Schools are given permission to grant approval.

ii) B.Ed. Graduates and qualified Tamil Pandits who are appointed in Secondary Grade Vacancies, shall undergo one month child Psychology through D.I.E.T in their own expenses and the Director of School Education shall take necessary steps. The Director of Teacher Education shall make arrangements for training through the Principal, D.I.E.T. and issue completion certificate for the short term course.

iii) The above appointments being made contrary to the Government Orders and the challenge made before the High Court being dismissed and the Writ Appeals also being dismissed, the salary for the above period could not be granted. Hence salary will be paid from the date of completion for training after approving the appointments of the said Secondary Grade Teachers.

iv) Before imparting training to the said teachers as stated above who are appointed in non-minority Primary, Middle, High and Higher Secondary Schools, the concerned approving officers should verify whether such appointments made are through employment Exchanges, and Rule of Reservation, age eligibility and other Rules are followed while appointing the said Secondary Grade teachers in the said Secondary Grade Posts and they should have undergone child Psychology training. Only after fulfilling the above requirements the concerned approving officers shall take steps to impart such training to the said teachers and they are fully responsible for the same.

v) For the Minority Schools, the Rule of Reservation, Rule of appointing through Employment Exchanges are not applicable. The B.Ed. Graduates / Tamil Pandits appointed as Secondary Grade Teachers in Secondary Grade posts in Minority Schools

completion of child Psychology training etc. The concerned approving officers shall take steps to impart training to the said teachers and they are fully responsible for the same.

vi) The Secondary Grade Teachers who are now ordered to grant approval are given relaxation for not possessing teachers training certificate and relaxation is issued as per Rule 15(6) VI (3) of Tamil Nadu Private Schools (Regulation) rules, 1974.

vii) Those teachers who are receiving salary in view of Court Stay orders and their appointments are all made contrary to the Government Orders, the several writ petitions filed by the B.Ed. Graduate teachers who are appointed in the Secondary Grade Posts were dismissed by the Hon'ble Division Bench of the High Court, Madras by order dated 29.6.2001. Hence the payment of salary is ordered to be stopped to the teachers who are receiving salary in view of stay orders. The Director of School Education and the Director of Elementary Education are hereby required to send detailed reports for initiating proceedings for recovery of salary which was paid already to the above said teachers as stated above.

viii) In recognised Private Schools, for promotions, for fixing salary and for pensionary benefits, the period during which the above said teachers who worked without approval will not be taken into account.

ix) The B.Ed. Graduates / Tamil Pandits who are appointed in the Secondary Grade posts, salary shall be paid only in the scale of Secondary Grade Teachers and Special incentives will not be granted. During their tenure as Secondary Grade Teachers they are not eligible for Special pay and incentives for acquiring Higher Qualification and Declaration to that effect should be obtained from the respective teachers.

x) The Director of Elementary Education and the Director of School Education are requested to implement the above conditions strictly without making any additional expenses to the Government.

xi) The appointments of B.Ed. Graduates in the Secondary Grade posts made after 19-5-98 will not be accepted.

3. This order is issued with the concurrence of the Finance Department in A.Sa.Ku. No. 1983/FS/P/2002 dated 21-6-2002.

(By Order of the Governor) "

40(ii). G.O.Ms.No.155, dated 03.10.2002 stated that the B.Ed. qualified teacher, who were appointed against the Secondary Grade Teacher vacancies, would not be paid salary for the period from 11.07.1995 to 19.05.1998 and they would be paid salary only from the date on which they complete one month Child Psychology Training, i.e, those teachers would not be paid salary from the date of their initial appointment till they complete One month Child Psychology Training.

40(iii). In Clause (vii) of G.O.Ms.No.155, it is stated that proceedings would be initiated to recover the salary paid for one reason or the other to the B.Ed., qualified teachers, who were appointed in Secondary Grade Teacher vacancies, during the period from 11.07.1995 to 19.05.1998.

40(iv). Clause (viii) of the G.O.Ms.No.155 stated that the services rendered by those B.Ed. qualified teachers, who were appointed in the Secondary Grade Teacher vacancies, during the period from 11.07.1995 to 19.05.1995, would not be counted for the purpose of promotion or fixation of salary or for pensionary benefits.

40(v). When G.O.Ms.No.155, dated 03.10.2002, was questioned in a batch of writ petitions, the Division Bench of this Court in the judgment reported in 2004-2-L.W. 591 held that the B.Ed. qualified Teachers, who were appointed in Secondary Grade Teacher vacancies contrary to G.O.Ms.No.559, dated 11.07.1995, are not entitled to salary from the date of their initial appointment. However, the Division Bench set aside a portion of the said G.O.Ms.No.155, dated 03.10.2002, namely sub-para (vii) of Paragraph 3, that sought to recover the salary paid to those teachers during the period from 11.07.1995 to 19.05.1998.

40(vi). The said aspect was dealt with in detail in paragraph 19 to 25 of this judgment.

41. Hence, I am of the view that in view of the judgment of the Division Bench of this Court in 2004-2-L.W. 591, the petitioners in W.P.No.12846 of 2015 cannot seek to quash the Clause (iii) of the G.O.Ms.No.155, dated 03.10.2002 and the other petitioners in W.P.Nos.9934 to 9937 of 2015 cannot seek direction for approval of their appointments from the date of appointment, as the same was rejected by the Division Bench in categorical terms.

42. As far as Clause (viii) of G.O.Ms.No.155, dated, 03.10.2002 is concerned, the Division Bench has held in the said judgment reported in 2004-2-L.W.591 that the service

rendered by those teachers prior to the approval after they complete one month Child Psychology Training would be counted only for the purpose of pension and not other purposes. In W.P.No.12846 of 2015, Clause (viii) of G.O.Ms.No.155 insofar as refusing to count the service for the purpose of pension is questioned by the petitioner. To that extent the petitioner in W.P.No.12846 of 2015 is entitled to get the said relief, as prayed for, but the petitioner is not entitled to get salary from the date of initial appointment till the date of the approval of his appointment after completing the Child Psychology Training.

43. Now let me consider the orders relied on by the learned Senior Counsel for the petitioners and the learned counsel for the petitioner in W.P.No.12846 of 2015 one by one :

I. The order dated 02.11.2006 in W.P.No.1664 of 2005 :

(i). W.P.No.1664 of 2005 is filed based on G.O.Ms.No.79, School education Department, dated 14.06.2002.

(ii). The petitioner therein is a B.T. Assistant and she was appointed on 08.08.2002 in the Secondary Grade vacancy, that arose on 14.06.2002, in the Aided Middle School to teach Classes VI to VIII.

(iii). But the appointment of the petitioner therein was not approved. Hence, she filed W.P.No.1664 of 2005.

(iv). Taking note of G.O.Ms.No.79, dated 14.06.2002, that provides for appointment of B.T. Assistants in the Secondary Grade vacancies in the Middle School to teach classes VI to VIII, the writ petition was allowed and a direction was issued to the educational authorities to approve the appointment of the petitioner therein.

(v). Hence, I am of the view that this order is of no use to the petitioners herein.

II. The order dated 19.12.2007 in W.P.No.9072 of 2005 :

(i). The petitioner therein was in possession of B.Ed. qualification and he was appointed in the Secondary Grade Teacher vacancy in the fourth respondent school therein with effect from 28.03.1998.

(ii). The appointment of the petitioner therein was not approved by the impugned order dated 29.07.2003 on the ground that he did not possess the requisite qualification and he did not undergo Child Psychology Training meant for Secondary Grade Teacher.

(iii). But the writ petition was allowed, based on the order of the Tamil Nadu Administrative Tribunal dated 13.12.2003 in O.A.No.3226 of 2003 and G.O.Ms.No.122, dated 02.08.2005.

(iv). I am of the view that it was not brought to the notice of the learned Single Judge about the categorical pronouncement of the Division Bench judgments in 2004 -2-L.W.

591 and 2004 Writ L.R. 173. Furthermore, the learned Government Pleader therein conceded for passing such an order and at this juncture it is useful to extract paragraphs 4 and 5 of the order dated 19.12.2007 in W.P.No.9072 of 2005 :

"4. The learned counsel for the petitioner placing reliance on the decision of the Tamil Nadu Administrative Tribunal in O.A.No.3226 of 2003 dated 13.12.2003 and the G.O.Ms.No.122, Scheduled Castes and Scheduled Tribes Welfare Department, dated 02.08.2005, would develop his argument to the effect that in commensurate with the aforesaid decision and the G.O., the service of the petitioner herein, should be regularised with effect from the date of his appointment, i.e., 28.03.1998 and not from the date of his completion of that course and the fact also remains that he completed the said course by 31.05.2003.

5. The learned Government Pleader would agree to the factual as well as legal position highlighted by the learned counsel for the writ petitioner."

(v). The Government filed appeal against the aforesaid order dated 19.12.2007 with delay of 417 days. In view of the concession given by the learned Government Pleader, that was recorded in paragraph 5 of the judgment by the learned Single Judge, the Division Bench dismissed the appeal at the condone delay stage itself. It is useful to extract the entire order of the Division Bench dated 01.10.2009 in M.P.(MD)No.1 of 2009 in W.A.(MD)No.SR.11055 of 2009.

"Heard Mr.R.Janakiramulu, the learned Special Government Pleader in support of this miscellaneous petition for condonation of delay of 417 days in filing the writ appeal.

2. Hardly any explanation has been in the supporting affidavit. The first respondent is a school teacher and was not being regularised. Therefore, he was constrained to file a writ petition. The learned Single Judge of this Court has recorded in paragraph 5 of his order that the learned Government Pleader would agree to the factual as well as legal position highlighted by the learned counsel for the writ petitioner.

3. Thus, practically, the learned Government Pleader accepted on facts as well as on law that the teacher was entitled to regularization. In view of this position, even on merits, we do not see any reason as to why the matter should be carried in appeal.

4. In the circumstances, this petition for condonation of delay is rejected and consequently, the writ appeal shall stand dismissed."

(vi). I am of the view that neither before the learned Single Judge nor before the Division Bench, the aforesaid two judgments of the Division Benches of this Court in 2002 Writ L.R. 173 and 2004-2-L.W. 591 were relied on. Hence, the petitioners herein could not rely on the order of the learned Single Judge dated 19.12.2007 in W.P.No.9075 of 2005, and the judgment of the Division Bench dated 01.10.2009 in M.P.(MD)No.1 of 2009 in WA(MD)SR.11055 of 2009, to seek salary from the date of their initial appointment, till the date of regularisation on completion of one month Child Psychology Training.

III. The order dated 03.11.2008 in W.P.No.16383 of 2000 :

(i). This order dated 03.11.2008 in W.P.No.16383 of 2000 and G.O(3D)No.117, School Education Department, dated 11.09.2012, implementing this order, are relied on by the learned counsel for the petitioner in W.P.No.12846 of 2015.

(ii) The petitioner school therein - a Primary Aided Elementary School, appointed one Manjula Devi as Headmistress and she was in possession of B.Ed. qualification. One of the qualifications for appointment to the post of Primary School Headmistress is B.Ed.,. But the petitioner therein was denied approval of appointment to the post of Primary School Headmistress placing reliance on G.O.Ms.No.155, dated 03.10.2002. That is, questioned by the petitioner School.

(iii). The learned Single Judge in the order dated 03.11.2008 relied on the judgment of the Division Bench dated 20.03.2007 in W.A.No.442 of 2007, wherein, it was held that G.O.Ms.No.155, dated 03.10.2002 is not applicable to the appointment of Primary School Headmistress. It is useful to extract paragraph 4 of the order dated 03.11.2008 in this regard :

"4. In the instant case, the incumbent Manjula Devi has given a consent for not receiving salary as Headmistress for five years till the completion of five years training. The learned Single Judge having noticed that G.O.Ms.No.155, School Education Department (D2), dated 03.10.2002 is not applicable to the appointment of the Headmistress in a Primary School, allowed the writ petition. As against which, the respondents filed a Writ Appeal No.442 of 2007, which was also dismissed on 20.03.2007 and the Division Bench upheld the contention that G.O.Ms.No.155, School Education Department (D2), dated 03.10.2002 cannot be applied to the appointment made in the Headmistress post and the same is applicable

only to the appointment made in the Secondary Grade vacancies."

(iv) Since the petitioner therein was not appointed as Secondary Grade Teacher and eligibility for appointment to the post of Headmistress is B.Ed. qualification, relying the above said Division Bench judgment dated 20.03.2007 in W.A.No.442 of 2007, the learned Single Judge allowed the writ petition.

(v) Later, the Government complied with the said order and issued G.O.(3D)No.117, School Education Department, dated 11.09.2012.

(vi) Admittedly, the petitioners herein were not appointed as Primary School Headmasters. Had the petitioners been appointed as Primary School Headmasters, then it is a different matter. Hence, they could not place reliance on the order dated 03.11.2008 in W.P.No.16383 of 2000 and G.O.(3D) No.117, dated 11.09.2012 implementing that order.

IV. The order dated 28.01.2013 and 17.06.2010 in W.P.Nos.4226/2006 and 7122 of 2010 respectively :

(i). In both these cases, the petitioners were Scheduled Caste candidates.

(ii) When the Government issued G.O.Ms.No.559, dated 11.07.1995 stating that B.Ed. qualified Teachers cannot be appointed in the Secondary Grade Teacher post, the Government issued G.O.Ms.No.113, School Education Department, dated 14.03.1997, permitting the appointment of B.T. Teachers belonging to SC/ST categories in Secondary Grade Teacher vacancies, since the SC/ST candidates with requisite qualification for appointment to the post of Secondary Grade Teacher were not available at that time.

(iii). The said G.O.Ms.No.113 was extended by the Government to Schools under the Adi Dravidar Welfare Department, by G.O.Ms.No.63, Adi Dravidar and Tribal Welfare Department, dated 01.04.1997.

(iv) The Government also issued G.O.Ms.No.301, School Education Department, dated 09.11.1999 and G.O.Ms.No.122, Adi Dravidar and Tribal Welfare Department, dated 02.08.2005 providing for approval of appointment of SC/ST teachers with B.Ed., qualification in Secondary Grade Teacher vacancies from the date of their initial appointment, in view of the aforesaid facts.

(v) In those circumstances, this Court passed the orders dated 17.06.2010 in W.P.No.7122 of 2010 and 28.01.2013 in W.P.No.4226 of 2006 directing to grant approval to the petitioners from the date of their initial appointment and to pay salary from the date of their initial appointment, accepting the plea of the petitioners therein that they belong to Scheduled Caste and they are governed by the aforesaid Government Orders.

(vi). The petitioners herein could not seek to extend the benefit, that was extended to Scheduled Caste candidates, as the Scheduled Caste candidates were not available with Secondary Grade qualification at that time leading to the issuance of the aforesaid G.Os. Hence, those two judgments could not render any help to the petitioners herein.

V. The order dated 09.07.2010 in W.P.No.4310 of 2003 :

(i). The petitioner therein, who was in possession of Tamil Pandit qualification, was appointed on 02.06.1986 as Secondary Grade Teacher.

(ii). Taking into account the fact that the petitioner was appointed in a regular vacancy in the year 1986 and since the petitioner was not appointed after 11.07.1995 in contravention of G.O.Ms.No.559, the learned Single Judge of this Court by the order dated 09.07.2010 gave a direction to approve the appointment of the petitioner therein.

(iii). In fact, the two judgments of the Division Benches of this Court in 2002 Writ L.R. 173 and 2004-2-L.W. 591 were also referred to in the order dated 09.07.2010.

(iv). I am of the view that in the facts of that case, more particularly, since the petitioner therein was appointed in the year 1986, much prior to 11.07.1995, her appointment was approved. The same cannot be cited in the case of the petitioners, who are governed by the two Division Bench judgments directly.

VI. The order dated 22.01.2013 in W.P.Nos.19821 of 2003, 11443, 12095, 12317, 12318 of 2005 :

(i). The prayer in those writ petitions was to quash Clauses (iii) and (viii) of G.O.Ms.No.155, dated 03.10.2002.

(ii). A learned Single Judge of this Court allowed the writ petitions. But, with due respect, I am unable to follow the said decision, since the same is directly in conflict with the Division Bench judgment reported in 2004-2-L.W. 591, wherein, the Division Bench upheld Clause (iii) and quashed a portion of Clause (viii) of G.O.Ms.No.155 and the said judgments occupies the filed.

(iii). The entire G.O.Ms.No.155 is extracted in paragraph 40 of this judgment and clause (iii) of G.O.Ms.No.155 stated that B.Ed. qualified Teachers appointed in Secondary Grade vacancies by aided schools from 11.07.1995 to 19.05.1998 are not entitled to salary from the date of their initial appointment, since they were appointed contrary to G.O.Ms.No.559, dated 11.07.1995 and their appointments cannot be approved and salary would be paid only from the date of completion of one month Child Psychology Training.

(iv) As far as Clause (viii) of G.O.Ms.No.155 is concerned, the Division Bench in the judgment in 2004-2-L.W. 591 quashed a portion of Clause (viii) of G.O.Ms.No.155, that declines to count the service from the date of initial

appointment till the date of approval of their appointments on completion of One month Child Psychology Training for the purpose of pension.

(v) Hence, I am unable to follow the said order of the learned Single Judge dated 22.01.2013 in W.P.Nos.19821 of 2003, 11443, 12095, 12317, 12318 of 2005, as the same is directly in conflict with the Division Bench judgments, referred to above.

(vi). In fact, the State filed Review Application Nos.136 to 138 of 2014 seeking to review the above order dated 22.01.2013 in W.P.Nos.19821 of 2003, 11443, 12095, 12317, 12318 of 2005.

(vii) The Review Petitions were dismissed by the learned Single Judge on 30.04.2014. When the Review Applications were heard, the learned Government Advocate failed to bring to the notice of the learned Single Judge about the judgment of the Division Bench in 2004-2-L.W. 591. The Government Advocate relied on the decision in 2002 Writ L.R. 173, that was the order passed by the Division Bench on 29.06.2001 in W.A.Nos.991 to 998, dated 29.06.2001.

(viii) However, the learned Single Judge in the order dated 30.04.2014 in Review Application Nos.136 to 138 of 2014 refused to interfere with the order dated 22.01.2013 made in the writ petition holding that the contention placing reliance on the decision in 2002 Writ L.R. 173 was not raised, when the writ petitions were argued. It is useful to extract paragraphs 3 and 4 of the order dated 30.04.2014 in Review Application Nos.136 to 138 of 2014 :

"3. Now, the present Review Applications have been filed by the Government stating that the order passed in the Writ Petitioner is contrary to the decision rendered in W.A.Nos.991 to 998 of 1998, dated 29.06.2001.

4. Firstly, no such contentions was raised before the Writ Court when the writ petitions were heard. In fact, on behalf of the Government, it was submitted that it was covered by the earlier order dated 09.07.2010 passed in W.P.No.4310 of 2002. Therefore, the present Review Applications are appeals in disguise and it is impermissible in law. The petitioners failed to point out any error, which is apparent on the face of the record, warranting invocation of the review jurisdiction. Accordingly, these Review Applications fail and the same are dismissed. No costs."

(ix) In view of the Division Bench judgments in 2002 Writ L.R. 173 and 2004-2-L.W. 591, more particularly, the latter judgment, wherein, the Division Bench upheld Clause

(iii) of G.O.Ms.No.155, dated 03.10.2002 and quashed a portion of Clause (viii) G.O.Ms.No.155, that refused to count the

particular period of service for the purpose of pension, I am unable to follow the order of the learned single Judge dated 22.01.2013 in W.P.Nos.19821 of 2003, 11443, 12095, 12317, 12318 of 2005.

VII. The order dated 03.11.2014 in W.P.(MD)No.17644 of 2014 :

(i). The petitioner therein was appointed in the Secondary Grade Teacher post, while he was in possession of B.Ed.,. He sought a direction from this Court to the authorities to pay salary from the date of his initial appointment.

(ii) Reliance was placed on the order of the learned Single Judge dated 22.01.2013 in W.P.No.19821 of 2003, 11443, 12095, 12317, 12318 of 2005. Following the said order, the order dated 03.11.2014 in W.P.(MD)No.17644 of 2014 was passed by the learned Single Judge.

(iii) The judgment reported in 2004-2-L.W. 591, wherein, this Court upheld Clause (iii) of G.O.Ms.No.155 and quashed a portion of Clause (viii) of G.O.Ms.No.155, that refused to take into account, the entire service for the purpose of pension, was not brought to the notice of the learned Single Judge, who heard W.P.(MD)No.17644 of 2014.

(iv) It is useful to extract paragraphs 5 and 6 of the order dated 03.11.2014 in W.P.(MD) No.17644 of 2014 :

"5. Mr.J.Gunaseelan Muthiah, learned Government Advocate, takes notice on behalf of the respondents and requests this Court to give two days time to take instructions, to verify as to whether any Writ Appeal or Special Leave Petition is pending against the order passed by this Court.

6. But, this Court is unable to agree with the said prayer. The reason is when this Court, in the earlier common order dated passed in W.P.Nos.19821 of 2003, 11443, 12095, 12317, 12318 of 2005, dated 22.01.2013, has followed the order of the Hon'ble Division Bench, and set aside G.O.Ms.No.155, dated 03.10.2002, insofar as two clauses are concerned, viz., clause Nos.(iii) and (viii), this Court is bound by the earlier order passed by this Court, since the department also has implemented the said order. It is necessary to mention that the case of the petitioner has already been recommended by the third respondent, the Additional Assistant Elementary Educational Officer, Kadayam Range, Tirunelveli District, vide proposal dated 26.08.2014 and the second respondent, the District Elementary Educational Officer, Tirunelveli, vide proposal dated 26.09.2014."

(v) Since I have already held that I am unable to follow the order of the learned single Judge dated 22.01.2013

in W.P.Nos.19821 of 2003, 11443, 12095, 12317, 12318 of 2005, I am also unable to follow this order dated 03.11.2014 passed relying on the above order dated 22.01.2013 and hence, the same is of no use to the petitioners herein.

VIII. The order dated 23.12.2014 in W.P.Nos.33245 to 33248 of 2014 :

(i) The learned Single Judge, who passed the order dated 22.01.2013 in W.P.Nos.19821 of 2003, 11443, 12095, 12317, 12318 of 2005, referred to above, has disposed of these writ petitions by the common order dated 23.12.2014, placing reliance on the above earlier order.

(ii) Here again, in these writ petitions, a challenge was made to Clauses (iii) and (viii) of G.O.Ms.No.155 and, as already held, the Clause (iii) of G.O.Ms.No.155 was upheld by the Division Bench and a portion of Clause (viii), that refused to count the entire service for the purpose of pension, alone is quashed.

(iii) As I have held that the order of the learned Single Judge dated 22.01.2013 is directly in conflict with the judgment in 2004-2-L.W. 591, I am not inclined to follow this order of the learned Single Judge.

Hence, the judgments relied on by the learned Senior Counsel for the petitioners in W.P.Nos.9934 to 9937 of 2015 and the learned counsel for the petitioner in W.P.No.12846 of 2015 are of no use to the petitioners herein.

44. The learned Special Government Pleader relied on my order dated 23.07.2013 in W.P.Nos.19920 to 19925 of 2013. In the said order, I have considered the similar request made by the petitioners therein in detail and rejected the same placing reliance on the two Division Bench judgments, referred to above.

45. For all the aforesaid reasons,

(i) the writ petitions W.P.Nos.9934 to 9937 of 2015 fail and the same are dismissed.

(ii). As far as W.P.No.12846 of 2015 is concerned, the writ petition is dismissed insofar as seeking to quash Clause (iii) of G.O.Ms.No.155, dated 03.10.2002 and the writ petition is partly allowed in terms of the judgment of the Division Bench in 2004-2-L.W. 591, as far as Clause (viii) is concerned.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

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To

1. The Secretary Government of Tamil Nadu,
Education Department,
Secretariat, Chennai - 9.
2. The Director of Elementary Education,
College Road, Chennai.
3. The Joint Director of School Education,
(Secondary Education),
College Road, Chennai - 6.
4. The Chief Educational Officer,
Trichy District.
5. The District Educational Officer,
Trichy District.
6. The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.
7. The Secretary,
Boys Higher Secondary School,
Srirangam, Trichy District.

+4cc's to Mr.S.N.Ravichandran, Advocate, S.R.No.8684
+1cc to Mr.M.Saravanakumar, Advocate, S.R.No.8672

W.P.Nos.9934 to 9937 of 2015
and 12846 of 2015

AK(CO)
CA(24/02/2016)

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