

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.34908 of 2016

C.Nagabalan

... Petitioner

Vs.

1. The Director,
Directorate of School Education,
D.P.I. Campus, College Road,
Chennai - 600 006.
2. The Chief Educational Officer,
***Vellore District.**
Vellore
3. The District Educational Officer,
Tirupathur,
***Vellore District.**

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, to direct the first, second and third respondents to place the petitioner under the Old Pension Scheme based on the initial date of appointment of the petitioner as Secondary Grade Assistant on 02.12.2002, which is applicable to those who entered into service prior to 01.04.2003 and extend all the benefits.

For Petitioner : Mr.T.Dharani

For Respondents : Mr. S.Gunasekaran,
Additional Government Pleader

WEB COPY
ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a Writ of Mandamus, to direct the first, second and third respondents to place the petitioner under the Old Pension Scheme based on the initial date of appointment of the

petitioner as Secondary Grade Assistant on 02.12.2002, which is applicable to those who entered into service prior to 01.04.2003 and extend all the benefits.

3. It is the case of the petitioner that the petitioner was appointed as secondary grade Assistant as per the proceedings of the Secretary, the Ambur Co-Operative Sugar Mills, Higher Secondary School Vadapudupet, Vellore dated 02.12.2002. In pursuance of the said proceedings, he joined duty on 04.12.2012, which is an aided school, governed by the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973. He continued to be a member of the Regular Pension Scheme, governed by the Tamil Nadu Pension Rules, 1978, which is applicable to the employees of the State Government who joined in service prior to 01.04.2003. As per G.O.Ms.No.155, School Education Department dated 03.10.2002, graduate teachers, who had been appointed in the secondary grade posts, had been directed to undergo child psychology training for a period of one month. Though the petitioner has joined on 04.12.2002, he was subjected to Child psychology training from 02.05.2003 to 31.05.2003 for the period of one month. Subsequently, he was brought under revised scale of pay of Rs.5200-20200+2800 with effect from 01.01.2006. After completion of training, the State Government had been directed to approve the appointment of the teachers. Thereafter, his appointment was approved with effect from 02.06.2003, i.e., from the date of completion of child psychology training.

4. A batch of secondary grade teachers having B.Ed., qualifications and appointed during the period from 11.07.1995 to 19.05.1998 were sent for child psychology training in the year 2003 to 2004 and their period of training was completed after 01.04.2003, i.e., after implementation of the Contributory Pension Scheme. Their appointments were subsequently regularized and salary paid with effect from the date of completion of training on approval of appointments after 01.04.2003. However, the service period cannot be counted for pension as per G.O.(Ms) No.155/School Education (D2) Department, dated 03.10.2002. Aggrieved over the same, a batch of teachers filed Writ Appeal in W.A.No.249, 282, 448 to 452 of 2002 and 80 of 2004 and the division bench of this Court while dismissing the above petitions directed to count the past service rendered for pensionary purposes. This was further confirmed by the Supreme Court of India in the Civil Appeal No.5012 of 2006. The petitioner who is also entitled for the similar relief, submitted his representation dated 25.02.2014. Since no action has been taken on the same, the petitioner has come forward with the present writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim of the petitioner, this Court directs the petitioner to give fresh representation, along with a copy of the order, to the 3rd respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the 3rd respondent is directed to consider with regard to place the petitioner under the Old Pension Scheme based on the initial appointment of the petitioner as Secondary Grade Assistant on ***02.12.2002** and pass appropriate orders on merits and in accordance with law within a period of 8 weeks thereafter.

7. With the above direction, this petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS VII)

Dated: 24.10.2016

*Amended as per order of this court dated 30.11.2016 and made in W.M.P.NO.34292/16 in W.P.34908/16

Sd/

Assistant Registrar

Dated: 23.12.2016

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Director,
Directorate of School Education,
D.P.I. Campus, College Road,
Chennai - 600 006.
2. The Chief Educational Officer,
Vellore District
Vellore
3. The District Educational Officer,
Tirupathur, Vellore District.

To be substituted
to the order
already
despatched on
7.11.2016

+1cc to Mr.T.Dharani, Advocate, S.R.No.56514
+1cc to the Government Pleader, S.R.No.57189

W.P.No.34908 of 2016

SAI(CO)
CA(24/10/2016)
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