



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P. (MD) .No.4706 of 2015

and

M.P (MD) No.1 of 2015

WEB COPY

T.Queen Marry Pushpa

.. Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep by its Secretary, Finance (Pension) Department,
Fort St. George, Chennai-9.
2. The Director of School Education,
Chennai.
3. The District Elementary Educational Officer
Tirunelveli, Tirunelveli District.
4. The Additional Assistant Elementary Educational Officer,
Alankulam, Tirunelveli District.
5. The Manager,
Arul Jothi Primary School,
Kurippankulam, Kuruvan Kottai Post-627 109,
Alangulam Taluk,
Tirunelveli District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to Na.Ka.No.4234/A5/06 Dated 04.10.2010 of the 3rd respondent herein insofar it relates to the approval of the appointment of the petitioner herein with effect from 1.06.2004 as Secondary Grade Teacher and consequently direct the respondents herein to approve the appointment of the petitioner herein as Secondary Grade Teacher with effect from 1.06.2000 and pay salary from 01.06.2000 to 31.05.2004 and pay Headmistress pay with effect from 01.06.2005 with all attendant benefits and privileges.

For Petitioner

:Mr.T.Pon Ramkumar

For Respondents 1 to 4

:Mr.S.Satheeshkumar

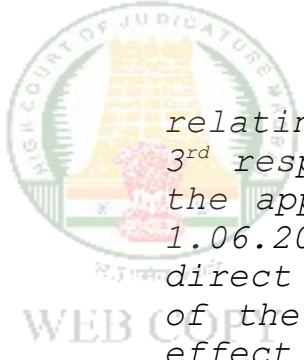
Additional Government Pleader

For 5th Respondent

:No appearance

ORDER

The prayer in the writ petition is as follows:-



relating to Na.Ka.No.4234/A5/06, dated 04.10.2010 of the 3rd respondent herein insofar it relates to the approval of the appointment of the petitioner herein with effect from 1.06.2004 as Secondary Grade Teacher and consequently direct the respondents herein to approve the appointment of the petitioner herein as Secondary Grade Teacher with effect from 1.06.2000 and pay salary from 01.06.2000 to 31.05.2004 and pay Headmistress pay with effect from 01.06.2005 with all attendant benefits and privileges."

2.The petitioner was appointed as a Secondary Grade Teacher on 01.06.2000 in the fifth respondent school which is admittedly a aided minority institution. The proposal seeking approval for the appointment was returned by the authorities on 30.10.2000 on the ground that it is contrary to G.O.Ms.No.559 dated 11.03.1995 which restrains the appointment of graduate teachers in the post of secondary grade teacher. The said Government Order was challenged by way of writ petitions which came to be dismissed by the learned single Judge on 19.05.1998. Challenging the same, writ appeals were filed. On the basis of the concession given by the learned Additional Advocate General, the writ appeals were disposed of with a direction to approve the appointments made between 11.07.1995 and 19.05.1998 after giving appropriate training to the appointees and the salary would be paid only with effect from the date of approval of such appointment. G.O.Ms.No.155 dated 03.10.2002 provided that salaries paid to those Graduate teachers who were appointed as Secondary Grade Teachers in the interregnum period will be recovered and their service would not be counted for pension. The said Government Order was quashed by this Court. The Division Bench of this Court held that the salaries paid to those teachers cannot be recovered and their services will be counted for pension.

3.So far as the teachers who had not received salary, it was held that they were not entitled to salary since the appointment was contrary to G.O.559. Thereafter, the Government passed another Government Order G.O.Ms.150, School Education Department, dated 02.07.2007 wherein it was decided that those graduate teacher who were appointed between 19.05.1998 and 29.06.2001 shall also be entitled to benefit of the concession given by the Division Bench but that benefit was restricted only to 22 teachers.

4.Claiming that the petitioner should also be extended such benefits, the fifth respondent school filed W.P.(MD)No.3831 of 2006 seeking direction to approve her appointment as Headmistress of the school from 01.06.2004 and pay her Secondary Grade Teacher's salary for a period of 5 years from the date of <https://hsevisaport.gov.in/semites/> and thereafter as per the scale of pay applicable to headmaster/headmistress. The said writ petition came to be allowed 28.01.2009. This Court after referring to the earlier

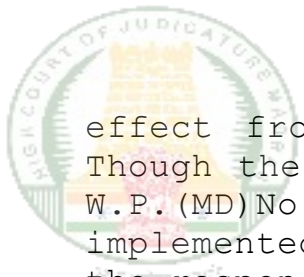


judgments of this Court in W.P.No.4542 of 2006 had issued the following direction:

" 5. In the light of the above orders, the impugned order dated 30.12.2005 passed by the second respondent is set aside, with a direction to the second respondent to consider the petitioner's claim for approval without reference to G.O.Ms.No.559, Education, dated 11.07.1995 and pass orders thereon within a period of four weeks from the date of receipt of a copy of this order. It is made clear that if the petitioner satisfies the requirement of five years of teaching experience, he is entitled to get approval of her appointment from the date of her appointment and otherwise, she is entitled to get approval as Headmistress with the scale of pay of Secondary Grade Teacher for five years and on completion of five years, he is eligible to get the scale of pay of Primary School Headmaster. "

5.The respondents were directed to comply with the directions within a period of eight weeks. Thereafter, the third respondent issued the impugned proceedings dated 04.10.2010 approving the appointment of the petitioner with effect from 01.06.2004. This, according to the petitioner, is contrary to the order passed by this court in W.P.(MD)No.3831 of 2006.

6.It is not in dispute that the petitioner was appointed as Secondary Grade Teacher on 01.06.2000 and was promoted as headmistress with effect from 01.06.2004. On the date of her appointment, there was a prohibition to appoint a Graduate Teacher in the post of the Secondary Grade Teacher. In view of the fact that several appointments were made contrary to G.O.Ms.No.559, the State decided to extend certain benefits to those teachers who were appointed between 11.07.1995 and 19.05.1998, namely, the date as which, the writ petition challenging the G.O.Ms.No.559, came to be dismissed. The said benefit was extended to other similarly placed persons by issuing G.O.Ms.No.150, dated 02.07.2007 by virtue of G.O.150 the services of 22 Graduate teachers who were appointed as secondary grade teachers between 19.05.1998 till date of the judgment of the Division Bench i.e., 29.06.2001. The said Government Order is restricted only to 22 persons. The petitioner was not included as one of the beneficiaries. Therefore, the fifth respondent school filed W.P.(MD)No.3831 of 2006 seeking direction to approve the appointment of the petitioner as Headmistress of the school from 01.06.2004 and pay her the Secondary Grade Teacher salary for a period of 5 years from the date of her appointment and thereafter as per scale of pay applicable to headmaster/headmistress. The said writ petition came to be allowed 28.02.2009 directing the Government to approve the appointment of the petitioner with



effect from her initial date of appointment i.e., 01.06.2000. Though the impugned order refers to the decision of this Court in W.P.(MD)No.3831 of 2006, the same has not been properly implemented. Having accepted the order in W.P.(MD)No.3831 of 2006, the respondents are duty bound to implement the same fully.

WEB COPY

7. In fine, the writ petition is allowed and the impugned proceedings issued by the third respondent, dated 04.10.2010 is set aside with a direction to the respondents to approve the appointment of the petitioner as a Secondary Grade Teacher with effect from 01.06.2000 and to approve the appointment of the petitioner as Headmistress with effect from 02.06.2005 (i.e.) after completion of five years from the date of her initial appointment. Admittedly, the petitioner has been paid salary as a secondary grade teacher from 01.06.2004 to 01.06.2005 and thereafter she has been paid salary as primary school Headmistress. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To:

1. The Secretary,
The Government of Tamil Nadu,
Finance (Pension) Department,
Fort St. George, Chennai-9.
2. The Director of School Education,
Chennai.
3. The District Elementary Educational Officer
Tirunelveli, Tirunelveli District.
4. The Additional Assistant Elementary Educational Officer,
Alankulam, Tirunelveli District.

RMI/VSG

VB/GT/SAR4/04.07.2017/4P/5C

W.P. (MD) .No.4706 of 2015
and
M.P (MD) No.1 of 2015