



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2017

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A(MD)No.1539 of 2016
and
C.M.P.(MD) No.11331 of 2016

1. The Government of Tamil Nadu
Rep.by its Secretary,
School Education Department,
Fort. St. George, Chennai-9.
2. The Director of Elementary Education,
College Road, Chennai-6.
3. The District Elementary Educational
Officer,
Tirunelveli, Tirunelveli District.
4. The Addl. Assistant Elementary
Educational Officer,
Radhapuram, Tirunelveli District. ...Appellants/R1 to R4

Vs.

1. B.Mary Theresa ...R1/Writ Petitioner
2. The Manager,
Raja Primari School,
Eachadi - 627 113,
Radhapuram Taluk,
Tirunelveli District. ...Respondent No.2/R-5

PRAYER: This Writ Appeal is filed under Clause 15 of Letters Patent, pleased to set aside the order dated 21.01.2015 in WP(MD) No.7596 of 2013.

Prayer in WP(MD) . 7596/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari or Mandamus or any other writ or order or direction in



the nature of writ of Certiorarified mandamus calling for the records of the 3rd respondent herein in Ne.Mu.No. 6000 /(A5) A6/05 dated 26.10.2006 in so far it relates to the approval of the appointment of the petitioner herein with effect from 26.05.2005 as Secondary Grade Teacher instead of 2.6.2003 and the consequential order of the 4th respondent in Na.Ka.No.594/ A3/ 13 dated 22.04.2013 and quash the same and consequently direct the respondents herein to approve the appointment of the petitioner herein as Secondary Grade Teacher with effect from 2.6.2003 and pay salary from 2.6.2003 to 25.5.2005 with all attendant benefits and Privileges.

For Appellants	: Mr.T.S.Md.Mohideen, AGP
For Respondents	: Mr.T.Pon Ramkumar

J U D G M E N T

[Judgment of the Court was made by G.R.SWAMINATHAN, J.]

The Government of Tamil Nadu is on appeal challenging the order dated 21.01.2015 allowing WP(MD)No.7596 of 2013 filed by the first respondent herein.

2.According to the first respondent, she was appointed as Secondary Grade Teacher in Raja Primary School, Eachadi, Radhapuram Taluk, Tirunelveli District on 04.02.1998. She was a graduate and also possessed B.Ed degree. Her appointment could not be approved on account of G.O.Ms.No.559, School Education Department, dated 11.07.1995. The validity of the said Government Order was upheld by this Court. However, in order to protect the services of those teachers who were appointed during the pendency of the writ proceedings, G.O.Ms.No.155, School Education Department, dated 03.10.2002 was issued with condition. A number of graduate teachers who were appointed in Secondary Grade Teacher posts were sent for one month child psychology training and their appointment were approved.

3.Even though the writ petitioner herein was appointed before the cut of date, for certain reasons she was not one of those who were sent for one month child psychology training. Finally, the writ petitioner was sent for the said training from 25.05.2005 to 24.06.2005 following the issuance of G.O.Ms.No.36, dated 22.03.2005. She successfully completed the said training. Thereupon, the writ petitioner's appointment was approved with effect from 25.06.2005 as Secondary Grade Teacher.

4.The case of the writ petitioner is that she ought to have been sent for the said training much earlier and she cannot be blamed for the delay committed by the authorities in sending her for training. The writ petitioner therefore questioned the order dated 26.10.2006 passed by the District Elementary Educational Officer, Tirunelveli approving her appointment only from

26.05.2005. She sought a direction for approving her appointment with effect from 02.06.2003. The said writ petition was allowed by the learned Single Judge by invoking the principle of parity. The learned Single Judge referred to the earlier decision passed by this Court in respect of similarly placed teachers. Questioning the said order dated 21.05.2015 allowing WP(MD)No.7596 of 2013 filed by the first respondent herein, this intra Court appeal has been filed.

5. Heard the learned Additional Government Pleader for the appellants and the learned counsel for the first respondent.

6. It was contended that the writ petition was hit by laches. An order of the year 2006 was questioned after seven years. It was also argued that when the writ petitioner completed child psychology training only on 25.05.2005, she is entitled to approval and salary only thereafter. It was pointed out that the writ petitioner had undergone the child psychology training only by 25.05.2005.

7. Even though the contention raised by the Additional Government Pleader for the appellants appears to be attractive, the facts remains that the learned Single Judge had simply applied to the principle of parity while granting relief to the first respondent. It is true that the first respondent herein filed the writ petition belatedly. But the appellants cannot be said to have suffered any prejudice on account of the same. It is not in dispute that similarly placed candidates, were sent for child psychology training and that they had completed the same by 02.06.2003. The writ petitioner was not at fault. The authorities cannot take advantage of their own wrong for having sent the writ petitioner for the said training belatedly.

8. In these circumstances, we do not wish to interfere with the order passed by the learned Single Judge. This writ appeal is therefore dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

skm / arul

MK/GT/SAR-2/08.09.2017/3P/1C

W.A(MD)No.1539 of 2016

and

C.M.P. (MD) No.11331 of 2016

08.08.2017