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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.08.2017
CORAM :

THE HONOURABLE MR.JUSTICE T. RAJA

W.P. (MD) No.14309 of 2017

S.Kannagi

... Petitioner

Vs.

1. The District Elementary Educational Officer,
Madurai District.

2. The Assistant Elementary Educational Officer,
Melur,
Madurai District.

3. The Secretary,
Tamilarasi Middle School,
Melur,
Madurai District.

... Respondents

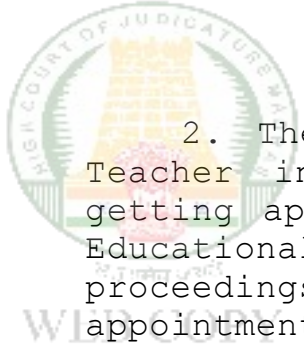
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus praying to call for the records pertaining to the order passed by the second respondent in his proceedings in Na.Ka.331-A-2017 dated 27.03.2017 and quash the same and direct the respondents to sanction selection grade to the petitioner with effect from 23.03.2008 in the cadre of secondary grade teacher with all the consequential benefits.

For Petitioner
For R1 & R2

: Mr.V.Panneer Selvam
: Mr.R.Karthikeyan
Additional Government Pleader

O R D E R

The writ petition is filed for a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the second respondent in his proceedings in Na.Ka.331-A-2017 dated 27.03.2017 and quash the same and direct the respondents to sanction selection grade to the petitioner with effect from 23.03.2008 in the cadre of secondary grade teacher with all the consequential benefits.



2. The petitioner, who was appointed as a Secondary Grade Teacher in the third respondent School, on 23.03.1998, after getting approval to her appointment from the District Elementary Educational Officer, Madurai, the first respondent herein, vide proceedings dated 08.05.1998, with effect from the date of her appointment, has come to this Court questioning the impugned order passed by the Assistant Elementary Educational Officer, Melur, Madurai District, the second respondent herein, dated 27.03.2017, in and by which the request for granting the benefit of Selection Grade on completion of 10 years of her service in the post of Secondary Grade Teacher, on 23.03.2008, was refused.

3. The learned counsel appearing for the petitioner assailing the impugned order passed by the second respondent would submit that it is the basic and fundamental issue for the Education Department to grant the benefit of Selection Grade to the teachers on completion of 10 years of service and the benefit of Special Grade on completion of 20 years of service. When the first respondent had approved the appointment of the petitioner by proceedings dated 08.05.1998, from the date of original appointment dated 23.03.1998, on completion of 10 years of service in the post of Secondary Grade Teacher, the second respondent ought to have granted the Selection Grade. Adding further it is stated that admittedly, in the present case, the petitioner has completed 10 years of service in the same cadre on 23.03.2008. Therefore, the second approval order with effect from 02.06.2003 cannot take away the right of the petitioner to claim the benefit of Selection Grade, as the petitioner has completed 10 years of service from the date of appointment on 23.03.1998. Even after the grant of order of approval, the petitioner received the salary in the cadre of Secondary Grade Teacher and moreover, she also underwent Child Psychology Training for one month in May 2003. Therefore, the first respondent issued second approval order on 22.09.2003 with effect from the date of completion of one month training viz., 02.06.2003, whereas the petitioner was appointed as Secondary Grade Teacher on 23.03.1998 and received her salary in the cadre of Secondary Grade Teacher in which, she is entitled to get the benefit of Selection Grade on completion of 10 years of service with effect from 23.03.2008.

4. Relying on two orders passed by this Court in W.P.(MD). No.6505 of 2007, dated 16.08.2012 and in W.P.(MD).Nos.19571 to 19573 of 2013, dated 05.01.2014, it is argued that while unreasonable stand was taken before this Court that only after completion of the training in Child Psychology in District Institute of Education and Training, Manjur, the appointment of teachers was approved on 02.06.2003 and that they would be eligible for Selection Grade in the post of Secondary Grade Teachers, only after completion of 10 years, the said contention



was repelled by this Court holding that once the teacher completes 10 years of service, she is entitled to get the benefit of Selection Grade, therefore, the respondent cannot take a different stand, since the issue has already been repelled by this Court in the aforementioned two orders.

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5. The learned Additional Government Pleader also fairly submitted that the Writ Appeals in W.A.(MD).Nos.1085, 1086, 726 and 1455 to 1457 of 2014 filed against the order passed in W.P.(MD).Nos.2368 to 2370 of 2014 and 19571 to 19573 of 2013, were dismissed by this Court affirming the order passed by the learned single Judge. In yet another judgment, this Court in Pallivasal Higher Secondary School v. Director of School Education and others (W.P.(MD).No.6505 of 2007, dated 16.08.2012), held as follows:

"11. While considering the above said plea, this Court vide order dated 23.11.1998, has observed as follows:

"9..... According to the Private Schools Regulation Act, the Authorities had got the power to approve or not to approve the appointment. The approval also could be made subject to certain conditions. Once an appointment has been approved without any condition, the Government has been bound to pay the grant. In this case, it is seen that the approval has been made without any condition. It may be a mistake by the Department. But so long as the approval stands, being an aided, the Government is bound to issue a staff grant. In fact, upto May 1998, staff grant was issued without any compulsion. Only from June 1998, the respondent refused to pay the grant and that can only be on the basis of the judgment which upheld G.O.Ms.No.559. Merely because G.O.Ms.NO.559 has been upheld, that cannot be a reason for refusing the staff grant in this case, when there is an unconditional approval for the three teachers."

12. In the light of the decision made in W.P.No.9854 of 1998 dated 23.11.1998, the contention of the District Educational Officer, Paramakudi, in his counter affidavit dated 27.01.2009, that only after completion of the training in Child Psychology in District Institute of Education and Training, Manjur, the appointment of the teachers was approved on 02.06.2003 and that they would be eligible for Selection Grade Teachers, only after 10 years I.e., on 02.06.2013, cannot be countenanced. There cannot be two approvals of the post of Secondary Grade Teachers. Needless to state that Selection Grade Scale of pay is given to a Government Servant considering 10 years of service put in by him."



6. In the light of the above, the respondents are hereby directed to grant the benefit of Selection Grade on completion of 10 years of service to the petitioner for the simple reason that the petitioner has completed 10 years of continuous service in the post of Secondary Grade Teacher from the date of appointment viz., 23.03.1998. It is needless to mention that the respondents are directed to grant the benefit of Selection Grade within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The District Elementary Educational Officer,
Madurai District.
2. The Assistant Elementary Educational Officer,
Melur,
Madurai District.
3. The Secretary,
Tamilarasi Middle School,
Melur,
Madurai District.

+ 1 CC TO MR.V.Panneer Selvam, ADVOCATE IN SR No.72867

akv

MK/SKN RSK/SAR-1/07.11.2017/4P/5C

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