



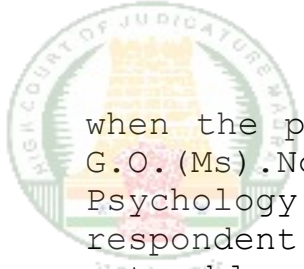
completion of ten years and Special Grade on completion of twenty years.

3. The learned counsel for the petitioner would submit that the petitioner completed B.Com., in the year 1987 and M.Com., in the 1989. The petitioner had also obtained B.Ed in the year 1992. With the aforementioned qualification, the petitioner was appointed as Secondary Grade Teacher on 03.04.1996, by the fourth respondent, the Correspondent / Sourashtra Higher Secondary School. On forwarding the petitioner's appointment seeking approval, the District Educational Officer, Ramnad District also granted approval with effect from 03.04.1996, certifying therein that the petitioner was having all the requisite qualification for the post of Secondary Grade Teacher. Therefore, when the petitioner was granted the order of approval by the District Educational Officer, Ramnad District, the third respondent herein, with effect from 03.04.1996, the respondents should have come forward to consider the grant of Selection Grade to the petitioner on completion of ten years of service as on 03.04.2006.

4. However, in the meanwhile, when G.O.(Ms).No.559 dated 11.07.1999 was issued, the Minority Schools and Teachers working in the Secondary Grade posts have challenged the said notification before this Court. At the time of admission, this Court has stayed the operation of G.O.(Ms).No.559 dated 11.07.1995. On the strength of the interim order, the third respondent had approved the appointment made by the management of the Minority Institutions. However, the validity of G.O.(Ms).No.559 dated 11.07.1995 was upheld by the learned Single Judge on 19.05.1998, and it had also been further confirmed by the Hon'ble Division Bench of this Court dated 29.06.2001.

5. Subsequently, after the order passed by the Hon'ble Division Bench, the Government issued G.O.(Ms).No.155 dated 03.10.2002, directing that training to be given in Child Psychology. The petitioner also, as per the said Government Order underwent the training in Child Psychology from 02.05.2003 to 31.05.2003. In view of the compliance of G.O.(Ms).No.155 dated 03.10.2002, the fourth respondent also granted Selection Grade with effect from 03.04.2006, from the date of appointment. Subsequently, the fourth respondent sent a proposal to the third respondent for approval of the Selection Grade with effect from 03.04.2006, vide proceedings dated 25.04.2006. The third respondent vide proceedings dated 12.09.2007, informed the third respondent that some clarification is sought for from the second respondent in this regard. However, no further development took place. Therefore, the proposal was re-submitted.

<https://hcservices.ecourts.gov.in/hcservices/> On the strength on the proposal sent by the fourth respondent to the third respondent making recommendation for grant of the Selection Grade to the petitioner, it is submitted that



when the petitioner has complied with the conditions mentioned in G.O.(Ms).No.155 dated 03.10.2002, namely, undergoing the Child Psychology Training. Even after recommendation made by the third respondent vide proceedings dated 12.09.2007, the petitioner is not able to get the benefit of Selection Grade and also the Special Grade. Therefore, he pleaded for a direction. In support of his submission, he has also placed reliance on the judgment of this Court in W.P.6505 of 2007 dated 16.08.2012.

7.The learned Additional Government Pleader appearing for the respondents would submit that it is an admitted fact that the petitioner completed Child Psychology Training only on 31.05.2003. Hence, the proposal made by the fourth respondent school to the third respondent on completion of ten years as on 03.04.2006, is wholly misconceived. However, fairly placing on record the order passed by the Hon'ble Division Bench in a batch of Writ Appeals dated 12.07.2017, submitted that for a Secondary Grade Teacher, only the date of completion of training in Child Psychology should be counted for completion of ten years for grant of Selection Grade has been repelled by the Hon'ble Division Bench of this Court. It is therefore pertinent to extract the relevant portion of the order passed by the Hon'ble Division Bench, which reads as follows:

"3.Aggrieved by the same, the said writ petitions were filed. The learned Single Judge, at the very outset, observed that the issue involved in the writ petitions was not longer res integra. He referred to the earlier order dated 06 January 2004 made in W.P.(MD) No.19571 to 19573 of 2013 and allowed the writ petitions. It is against the said order that the present writ appeals have been preferred. We have gone through the earlier orders passed both by the learned Single Judge as well as the Division Bench.

4.When the appointments of the writ petitioners were approved, the confirmation of Selection Grade will have to be given on completion of 10 years therefrom. Merely because the Child Psychology Training course was undergone by them later, the completion of 10 years of service cannot be correspondingly deferred. This has been the consistent view taken by this Court on the earlier occasions. We see no reason to differ from the same. We find no merit in these writ appeals. Hence, these writ appeals stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."

<https://hcservices.ecourts.gov.in/hcservices/> In addition thereto, reliance was also placed on one another un-reported order passed by this Court in W.P.Mo.6505 of 2007 dated 16.08.2012, which reads as follows:



"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 school, 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 in the post of Secondary Grade Teachers, only after 10 years ie., 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.

13.In the case on hand, the teachers belonging to the Pallivasal Higher Secondary School, Mudukulathur, Ramanathapuram District, were appointed on 21.12.1996. Admittedly, they have completed 10 years of service in 2006. As stated supra, their appointments have been approved as Secondary Grade Teachers earlier. As observed in the order in W.P.No.9854 of 1998 dated 23.11.1998, approval of appointment is unconditional and that there is no alteration in the service condition.

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Appointees have completed 10 years of service in 2006, in the post of Secondary Grade Teachers, and considering the object in granting the Selection Grade



Scale of Pay, ie., to avoid stagnation in any particular post, this Court is of the view that the petitioner is entitled to the relief sought for. The objections of the respondents are overruled. On the facts and circumstances of the case, a Mandamus is issued directing the third respondent to grant selection grade scale of pay to the teachers of the petitioner school, namely (1) S.Muthu Madasamy and (2) Ali Akbar with effect from 21.12.2006 and pay all the benefits, within a period of two months from the date of receipt of a copy of this order."

9.A perusal of the above clearly shows that the issue raised in the present writ petition that a teacher is entitled to get the benefit of Selection Grade on completion of ten years from the date of grant of approval is no longer *res integra*. The above observation further shows that once the teacher has been granted approval, then, only from the date of the order of approval, the counting will start for the purpose of giving the benefit of Selection Grade.

10.In the present case, when the petitioner was appointed as Secondary Grade Teacher on 03.04.1996 a proposal was made by the school authority to the third respondent and the third respondent had also granted an order of approval vide proceedings dated 14.07.1996, with effect from 03.04.1996. Therefore, there can be only one order of approval. Since, in the present case the order of approval was granted by the third respondent vide proceedings dated 14.07.1996, with effect from 03.04.1996, it goes without saying that the petitioner is entitled to get Selection Grade on completion of ten years ie., from 2006.

11.Admittedly, in the present case, the petitioner has completed ten years of service in the post of Secondary Grade Teacher as on 03.04.2006, from the date of grant of approval and he has also completed the training in Child Psychology from 02.05.2003 to 31.05.2003.

12.Therefore, the present writ petition stands allowed and the respondents are hereby directed to disburse the benefit of Selection Grade on completion of ten years from 2006. It is needless to mention that since the petitioner has also completed twenty years of service, the respondents shall also consider the case of the petitioner for the Special Grade post within a period of eight weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-II)



To

1. The Secretary to Government,
State of Tamil Nadu,
School Education Department,
Fort St. George, Chennai - 600 009.

2. The Director of School Education,
E.V.K.Sampath Building,
DPI Complex, Chennai - 600 006.

3. The District Educational Officer,
Paramakudi, Ramnad District.

4. The Correspondent,
Sourashtra Higher Secondary School,
Paramakudi, Ramnad District.

+ 1 CC TO MR.M.Md.Ibrahim Ali, ADVOCATE IN SR No.77254

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.77477

MK/JC/SAR-1/24.10.2017/6P/7C

W.P. (MD) No.16890 of 2017

07.09.2017