



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.09.2017
CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

WEB COPY

W.P. (MD) No.17970 of 2017
and WMP Nos.14483 and 14484 of 2017

Ursula Suganya Velaidem
Secondary Grade Teacher (Selection Grade)
Christ Jothi Primary School
Caussanel Nagar, Konganthanparai Post
Tirunelveli District

... Petitioner

Vs.

1. The Director of Elementary Education,
DPI Campus, College Road,
Nungampakkam, Chennai.1
2. The District Elementary Educational Officer,
Tirunelveli
3. The Assistant Elementary Educational Officer,
Palayamkottai Urban, Tirunelveli
4. The Additional Assistant Elementary
Educational Officer, Palayamkottai Urban
Tirunelveli
5. Christ Jothi Primary School
Rep. by its Correspondent,
Caussanel Nagar, Konganthanparai Post
Tirunelveli District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order in Na.Ka.No.2057/Aa2/2016 dated 15.11.2016 passed by the 3rd respondent and Audit objection dated 15.11.2016 No. Nil passed by the 4th respondent, quash the same.

For Petitioner	: Mr.R.Subramanian
For Respondents	: Mr.D.Muruganandham
1 TO 4	Addl. Government Pleader

ORDER

By consent of both sides, this writ petition itself is taken up for final disposal.



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

3. The petitioner has come to this Court challenging the order passed by the 3rd respondent dated 15.11.2016.

4. The petitioner was appointed as Secondary Grade Teacher on 26.02.1998 in St. Charles Elementary School, Vadipatti Madurai District under the administration of Corporate Management of the Congregation of the Brothers of Sacred Heart of Jesus, Palayamkottai, Tirunelveli District.

5. The learned counsel for the petitioner submitted that the appointment of the petitioner as Secondary Grade Teacher was approved by the District Elementary Educational Officer, on 06.05.1998. After her appointment, the District Elementary Educational Officer, Madurai, in his proceedings dated 06.05.1998 had approved her appointment with effect from 26.02.1998. While so, the third respondent/Assistant Elementary Educational Officer, Palayamkottai, on the basis of audit objection issued by the 4th respondent, wrongly passed an order dated 15.11.2016 that she is entitled to count her service from the date of completion of Child Psychology Training for the purpose of awarding selection grade and it was also further stated that she was wrongly awarded selection grade in the year 2008 and the said order is wholly improper and unjustified, in the light of the well settled legal position held by this Court in W.A.(MD) No.1085/2014.

6. The relevant portion of the order shows that when a similar issue came up before this Court raising the question as to whether a Teacher is entitled to count her service only from the date of appointment or from the date of completion of her Child Psychology Training, the learned single Judge has taken a view that the date of completion of the Child Psychology Training cannot be taken and this view has also been upheld by the Division Bench. It is useful to extract paragraph Nos.3 and 4 of the said judgment made in W.A.No.1085/2014:

"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 no 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."

7. In view of the settled legal position, as the issue is no longer res integra, the impugned order dated 15.11.2016 passed by the 3rd respondent is set aside and the writ petition stands allowed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

1. The Director of Elementary Education,
DPI Campus, College Road,
Nungampakkam, Chennai.1
 2. The District Elementary Educational Officer,
Tirunelveli
 3. The Assistant Elementary Educational Officer,
Palayamkottai Urban
Tirunelveli
 4. The Additional Assistant Elementary
Educational Officer,
Palayamkottai Urban
Tirunelveli
- + 1 CC TO MR.R.Subramanian, ADVOCATE IN SR No.80502
rr
MK/JC/SAR-2/31.10.2017/3P/6C