



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2017

CORAM:

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

W.A.[MD].No.1159 of 2013
and
M.P.[MD]No.2 of 2013

1. The District Elementary Educational Officer,
Madurai District, R.M.S. Road,
Madurai 625 001.
 2. The Assistant Elementary Educational Officer,
Alanganallur, Vadipatti Taluk,
Madurai District.
- ... Appellants

Vs.

- 1.P.Malarvizhi
 - 2.The Secretary,
Nehru Vidyasalai Aided Primary School,
Thathagounden patty, Kallivelipatti post,
Alanganallur Union,
Madurai District.
- ... Respondents

PRAYER in both writ appeals: Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order dated 30.04.2013 in W.P.(MD).No.6396 of 2013 on the file of this Court.

Prayer in WP(MD). 6396/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to regularize the petitioner service from 19.07.2002 and consequently direct the respondents to disburse the time scale salary from 19.07.2012 to 09.01.2004 with all other attendant benefits to the petitioner.

For Appellants : Mr.T.S.Mohamed Mohideen, AGP

For Respondents : Mr.C.Arul Vadivel @ Sekar

**JUDGMENT**

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

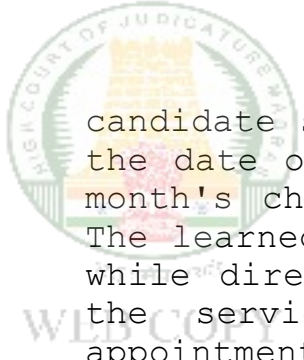
The Education Department is on appeal, questioning the order dated 30 April 2013 made in W.P.(MD) No.6396 of 2013. The said writ petitioner was filed seeking regularisation of the writ petitioner's service from 19 July 2002 and for disbursement of her time scale salary from 19 July 2002 to 09 January 2004 with all attendant benefits.

2.The writ petitioner is an M.A., B.Sc., B.Ed holder and belongs to Scheduled Caste community. She was appointed as Secondary Grade Teacher and she joined duty On 19 July 2002 in Nehru Vidyasalai Aided Primary School, Thathagounden patty, Alanganallur Union, Madurai District. It is an aided school and the selection was made after following due procedures. The sanctioned post was meant for Scheduled Caste Women candidate only. Thereafter, she underwent child psychology training from 10 December 2003 to 09 January 2004. Upon her successful completion of the said training course, the writ petitioner was given time scale of pay with effect from 10 January 2004 only. The writ petitioner had been requesting that she should be regularised with effect from 19 July 2002 and that her salary should be disbursed in the time scale of pay from the said date. Since there was no response from the authorities, she filed W.P(MD) No.6396 of 2013.

3.The learned Judge took note of G.O.Ms.No.122 dated 12 August 2005 and also the order dated 17 June 2010 made in W.P.(MD) No.7122 of 2009 and held that the benefit of regularisation was given in favour of graduate Scheduled Caste candidates, who were appointed against secondary grade vacancies from the date of their appointment, even though they underwent child psychology training later. By order dated 17 June 2010 in W.P.(MD) No.7122 of 2009, this Court held that the authorities shall not deny the same benefit to Scheduled Caste teachers recruited in aided schools. In view of the same, the learned Judge chose to allow W.P.(MD) No.6396 of 2013 filed by the first respondent herein. Questioning the same, the instant writ appeal has been filed.

4.It is not the contention of the learned Additional Government Pleader that the order made in W.P.(MD) No.7122 of 2009 was appealed against.

5.We are conscious of the fact that the teachers working in aided private schools are covered by Tamil Nadu Recognized Private Schools Regulation Act, 1973 and the rules framed thereunder. It is also true that G.O.Ms.No.122 dated 02 August 2005 is applicable only to teachers working in Government schools. Nevertheless, we deem it inequitable that a duly selected



candidate should be deprived of the benefit of regularisation from the date of her appointment, merely because she underwent the one month's child psychology training course later in point of time. The learned Judge had only followed an earlier order of this Court while directing the respondents in the writ appeal to regularise the service of the writ petitioner from the date of her appointment and to pay the monetary benefits. We see no reason to interfere with the order made in the writ petition.

6.This writ appeal is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The District Elementary Educational Officer,
Madurai District, R.M.S. Road,
Madurai 625 001.
2. The Assistant Elementary Educational Officer,
Alanganallur, Vadipatti Taluk,
Madurai District.

+1cc to Mr.C.Arul Vadivel @ Sekar, Advocate in SR.No.63434
+1cc to Special Government Pleader in SR.No.63488

Arul/skm

AE/MR KKR/SAR3/20.07.2017/3P/5C

W.A.[MD].No.1159 of 2013
and
M.P.[MD]No.2 of 2013
06.07.2017