

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-12-2018

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.14094 of 2004

And

W.P.M.P.No.16620 of 2004

S.Mumtaz Begum

...Petitioner

Vs

1.The Director of School Education,
(High School) DPI Complex,
College Road,
Chennai-6.

2.The Chief Educational Officer,
Villupuram,
Villupuram District.

3.The District Educational Officer,
Tindivanam,
Villupuram District.

4.The District Elementary Educational Officer,
Villupuram District.

5.The Additional Assistant Educational Officer,
Tirukoilur,
Villupuram District.

6.The Correspondent,
Danish Mission High School,
Chandapet,
Tirukoilur,
Villupuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the Chief Educational Officer, Villupuram, second respondent herein, in Na.Ka.No.651/A1/2003 dated 3.12.2003 and quash the same and consequently direct the respondents to pay the back

wages along with other monetary benefits to the petitioner for the periods from 1.9.1995 to 25.11.1996 in the pay scale of Part Time Technical Teacher and from 26.11.1996 to 24.2.2000 in the pay scale of Full Time Technical Teacher.

For Petitioner : M/s.N.Umapathi and
M.R.Franklin

For Respondents-1to5 : Mr.A.Raja Perumal,
Additional Government Pleader.

For Respondent-6 : No Appearance.

O R D E R

The order of rejection passed by the second respondent in proceedings dated 3.12.2003 in respect of the claim of the writ petitioner for disbursement of salary in the cadre of Full Time Vocational Instructor, is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner made a submission that the writ petitioner was appointed as a Part Time Vocational Instructor during the year 1995 and she had completed all necessary Training Programme and became eligible for appointment to the post of Full Time Vocational Instructor in the Education Department. However, the salary attached to the post of Full Time Vocational Instructor had not been paid to the writ petitioner, despite the fact that she is fully qualified to hold the post of Vocational Instructor. However, it is admitted that the writ petitioner was appointed as a Full Time Vocational Instructor from the year 2000 onwards and thereafter, the benefit of Full time salary had been paid to the writ petitioner. In view of the fact that the full time salary attached to the post of Vocational Instructor had not been disbursed to the writ petitioner from the year 1995 onwards, the writ petitioner is constrained to move the present writ petition.

3. The learned counsel for the writ petitioner made a submission that similar benefit of grant of salary attached to the post of Full Time Vocational Instructor was granted to many other similarly placed persons like the writ petitioner with retrospective effect. Thus, the writ petitioner is also entitled for the same benefit and the respondents cannot adopt a step motherly treatment in the case of the writ petitioner alone. When the benefit of Full Time Vocational Instructor salary had been paid to the similarly placed persons like the writ petitioner, the same is to be extended to the writ petitioner also. Thus, the order of rejection is contrary to law and is untenable.

4. The learned counsel for the writ petitioner filed additional typed set of papers showing that the similar benefit was granted to some other teachers. The learned counsel for the writ petitioner further states that as per Rule 26 of the Fundamental Rules, the writ petitioner is entitled to claim full salary attached to the post of Vocational Instructor with retrospective effect from the date on which she was engaged as a Part Time Vocational Instructor in the Educational Department.

5. The learned Additional Government Pleader, appearing on behalf of the respondents 1 to 5, disputed the contentions of the learned counsel for the writ petitioner, by stating that the writ petitioner was originally appointed as a Part Time Vocational Instructor in the Danish Mission Middle School, Sandapet, Thirukovilur on 15.2.1984 and continued as such till 24.2.2000. The Government passed orders in G.O.Ms.No.224, Education, Science and Technology Department, dated 24.3.1994, providing opportunity to the Part-Time Pre-Vocational Instructors with SSLC qualification for absorption as Full Time Teachers in the Secondary Grade vacant posts, by giving three months training in the District Institute of Education and Training and conducting an examination at the end of the training. Accordingly, the writ petitioner also directed to undergo the Training at the District institute of Education, Vadalur. The writ petitioner had undergone the Training Course from 19.1.1995 to 10.5.1995 and passed the examination held at the end of the Training Programme.

6. In view of the fact that the writ petitioner had successfully completed the Training Programme, she became eligible for absorption to the post of Full Time Teacher. The Government issued orders in G.O.Ms.No.752, Education, Science and Technology Department dated 18.10.1996, allotting a vacant Secondary Grade Teacher post from the Panchayat Union Middle School, Sivanarthangal to the Danish Mission Middle School, Sandapet. At that point of time, the Danish Middle School, Sandapet has been upgraded as High School by the Management sending proposals to the first respondent for orders of upgradation land for the absorption of the teachers working in Standards VI to VIII of that Middle School into the High School.

7. The Government issued further orders in G.O.Ms. No.72, School Education (C2) Department, dated 21.3.2000 to provide Full Time posts for absorption of the Part Time Teachers, such as the writ petitioner, who were working in the erstwhile Middle School, upgraded into High Schools. As per the orders of the Government in G.O.Ms.No.72, a vacant Secondary Grade Teacher post from the Panchayat Union Elementary School, Kanakanandal was transferred to Danish Mission High School,

Sandapet by order dated 25.2.2000 of the fourth respondent. In that post, the writ petitioner was absorbed as a Full Time Teacher and paid the salary in the scale of pay of the Secondary Grade Teachers from the date of order of the fourth respondent i.e., from 25.2.2000.

8. Earlier, the writ petitioner filed a writ petition in WP No.3770 of 2000 for a direction to direct the respondents to pass necessary orders for absorption of the writ petitioner as Full Time Teacher. However, the said writ petition was dismissed on account of the fact that the grievance of the writ petitioner for absorption was redressed during the relevant point of time. Once again the writ petitioner filed another writ petition in WP No.43155 of 2002 for a direction to direct the respondents to pay the back wages along with monetary benefits from 1.9.1995 to 24.2.2000 in the pay scale of Full Time Technical Teacher. This Court passed an order, directing the respondents to consider the representations submitted by the writ petitioner, within a period of eight weeks. Pursuant to the directions, the respondents considered the representations and rejected the claim of the writ petitioner mainly on the ground that she was absorbed as a Regular Full Time Secondary Grade Teacher with effect from 25.2.2000 and therefore, the writ petitioner is not entitled to claim salary attached to the post of Full Time Vocational Instructor with effect from the year 1995 onwards.

9. This Court is of an opinion that the parties to the lis on hand, admitted the fact that the writ petitioner was appointed as a Regular Secondary Grade Teacher in a vacant post from 25.2.2000 onwards. The said Secondary Grade Teacher post was transferred from Panchayat Union Elementary School, Kananandal and accordingly, the writ petitioner was absorbed as Secondary Grade Teacher by the fourth respondent in Danish Mission High School, Sandapet. Till such time, no post of Secondary Grade Teacher was vacant in Danish Mission High School, Sandapet. Thus, the writ petitioner was continuing as Part Time Vocational Instructor till her absorption as Regular Secondary Grade Teacher on 25.2.2000.

10. In view of the fact that the writ petitioner had not served as a Full Time Vocational Instructor in the regular sanctioned post, she is not entitled to claim the salary attached to the regular post. However, full salary had been disbursed to the writ petitioner with effect from 25.2.2000, the date on which the writ petitioner was appointed as a Regular Secondary Grade Teacher. The claim of the writ petitioner for full salary attached to the post of Full Time Vocational Instructor with effect from 1.9.1995, cannot be considered in view of the fact that the writ petitioner had not served as Full

Time Vocational Instructor and she was continued only as a Part Time Vocational Instructor and the salary for the same had already been disbursed to her and therefore, the order of rejection passed by the second respondent in this regard is in accord with the Government Orders issued and there is no infirmity as such.

11. Thus, the writ petitioner has failed to establish any acceptable grounds for the purpose of considering the relief, as such, sought for in the present writ petition. Accordingly, the writ petition is devoid of merits and the same stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Svn
To

- 1.The Director of School Education,
(High School) DPI Complex,
College Road, Chennai-6.
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- 5.The Additional Assistant Educational Officer,
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Villupuram District.

+1cc to Mr.N.Umapathi, Advocate Sr.83392
+1cc to the Special Pleader Sr.83626

WP No.14094 of 2004

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