

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.07.2018

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.32391 of 2015

N.Kalaiyarasi
Secondary Grade Vocational Instructor,
Kshatriya Nadar Girls Higher Secondary School,
Kamuthi, Ramanathapuram District. ... Petitioner
Vs.

- 1.The Government of Tamil Nadu,
Rep.by its Secretary to Government,
School Education Department,
Secretariat,
Chennai-600 009.
- 2.The Director of School Education,
College Road,
Chennai-600 006
- 3.The Joint Director of School Education,
College Road,
Chennai-600 006
- 4.The Chief Educational Officer,
Ramanathapuram District,
Ramanathapuram.
- 5.The Correspondent,
Kshatriya Nadar Girls' Higher Secondary
School,
Kamuthi-623 603,
Ramanathapuram District ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the entire records which culminated in issuing the Government Letter No.2135/CC.1/(3)/2014-2, dated 12.05.2014, on the file of the first respondent and quash the same and consequently direct the respondents to extend the benefits of G.O.(2D) No.7, School Education Department, dated 23.02.2012, to the petitioner, fix the scale of pay of the petitioner in the cadre of Secondary Grade Scale of Pay of the Vocational

Instructor with effect from 2.8.1993 and confer all the consequential benefits to the petitioner, within a time limit that may be fixed by this Court.

For Petitioner .. Mr.S.Mani

For Respondents .. Mr.C.Munusamy,Spl.G.P.

ORDER

The petitioner was appointed as Part Time Vocational Instructor on 02.08.1993 in the fifth respondent institution. Her appointment was subsequently approved by the Fourth respondent on 30.03.1994 with effect from 02.08.1993. On 26.11.2002, the petitioner was granted pay scale in the Secondary Grade pay with effect from 10.06.2002. Subsequently, by order dated 31.05.2007, the petitioner was granted time scale of pay in BT Assistant scale i.e. Vocational Instructor Grade-I with effect from 10.06.2002, but monetary benefits from 8.7.2004.

2.The petitioner, even at the time of her initial appointment, had completed graduation and was qualified and subsequently she had also obtained B.Ed degree. The grievance of the petitioner is that she should have been given the time scale of pay notionally in the cadre of Vocational Instructor Grade-I, with effect from 02.08.1993 and not from 10.06.2002 and monetary benefits from 8.7.2004. In similar circumstances, the Government has passed G.O.(D) No.7, School Education Department, dated 23.02.2012, granting the benefit of the time scale applicable to Vocational Instructor Grade-I with effect from the date of initial appointment and monetary benefits from 08.07.2004. The petitioner is only seeking time scale of pay applicable to Vocational Instructor Grade-I with effect from the date of her initial appointment, since she is also similarly placed as that of one Kannan, who was the beneficiary of the above said Government Order.

3.The learned counsel appearing for the petitioner would also submit that this Court in W.P.No.19688 of 2014, dated 25.02.2015, has allowed similar claim by one Mr.S.Manimuthu on the basis of G.O.(2D) No.7, School Education Department, dated 23.02.20012. The operative portion of the order passed by the learned single Judge, in the aforesaid Writ Petition is extracted below:

"5. The request made by the petitioner for giving him selection grade retrospectively was rejected primarily on the ground that the earlier appointment was only

on part time basis. The petitioner has produced a copy of the Government Order in G.O.Ms.No.(2D) No.7, School Education Department, dated 23.02.2012 in support of his contention that under similar circumstances, the services of another employee was regularised without giving monetary benefits. The petitioner is also similarly situated. In fact the employee by name Kannan also attended training along with the petitioner and as such, the first respondent should treat the petitioner in the same way in which they have treated the said employee. The petitioner is therefore perfectly correct in his contention that he should have been given retrospective regularisation as in the case of Kannan.

6. In the result, the impugned order 02.01.2014 is set aside. The first respondent is directed to consider the claim made by the petitioner for retrospective regularisation in the light of the order in G.O.(2D) No.7 School Education Department dated 23.02.2012. It is made clear that no monetary benefits would be given to the petitioner and retrospective regularisation would be for the purpose of counting the total service for other purposes. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this order."

4.The learned counsel for the petitioner would submit that the issue raised in the present Writ Petition is squarely covered by G.O.(2D) No.7, School Education Department, dated 23.02.2012 and also the order passed by the learned Judge in the aforesaid Writ Petition.

5.The learned counsel appearing for the official respondent would also agree with the fact that the issue is covered in all respects.

6.In the above said circumstances, this Court is of the considered view that the petitioner should also be granted a similar relief as given to the said Kannan and Manimuthu, since she is also identically placed.

7.Therefore, the rejection of the request of the Writ Petitioner, in the teeth of the Government Order in G.O.(2D) No.7, School Education Department, dated 23.02.2012, and the

decision rendered by this Court in the aforesaid Writ Petition, cannot be sustained and liable to be set aside and hence, the impugned Government Letter No.2135/CC.1/(3)/2014-2, dated 12.05.2014, is hereby set aside. There shall be a consequential direction to the respondents 1 to 4 to grant the Pay Scale of Vocational Instructor Grade-I to the petitioner with effect from 02.08.1993 on notional basis and grant actual monetary benefits from 08.07.2004 with all attendant benefits. The respondents 1 to 4 are directed to comply with this direction within a period of eight weeks from the date of receipt of copy of this order.

In fine, the writ petition stands allowed as above. No costs.

msk

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,
School Education Department,
Secretariat,
Chennai-600 009.
- 2.The Director of School Education,
College Road,
Chennai-600 006
- 3.The Joint Director of School Education,
College Road,
Chennai-600 006
- 4.The Chief Educational Officer,
Ramanathapuram District,
Ramanathapuram.

+1cc to Mr.S.Mani, Advocate Sr.No.43658
+1cc to Government Pleader sR.No.44052

sm:24.7.2018

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