



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2018

CORAM:

WEB COPY

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

W.P. (MD) .Nos.24 and 27 of 2015
and
M.P. (MD) .Nos.2 and 2 of 2015

1. J.Karthikeyan
2. T.Jeyanthi
3. T.L.Ramakrishnan
4. R.Ramesh
5. M.Sankari
6. V.Jeyachitra
7. G.Bhuvaneswari
8. K.Krishnamurthy
9. D.Chitradevi
10. R.Bhuvaneswari
11. V.Vivekananthan
12. C.Thirugnanamurthy
13. T.Thirugnanam
14. D.Devadasam Ravikumar
15. B.Sabitha
16. G.Muralidharan
17. K.Navamani
18. J.Gowri

... Petitioners in W.P. (MD) .No.24/2015

1. N.Sivakumar
2. M.Lakshmi
3. M.Shenbagavalli
4. M.Krishnamurthy
5. Santhi Kalia Perumal
6. N.Seethalakshmi
7. N.Ramani
8. S.S.Elangovan
9. N.Srividya
10. V.Dhanarani
11. T.Suseela
12. T.Akhilandeswari
13. T.S.Malathi

... Petitioners in W.P. (MD) .No.27/2015

Vs .

1. The Director of Elementary Education,
College Road,
Chennai 600 009.



2. The District Elementary Education Officer,
Thanjavur District, Thanjavur.
3. The Assistant Elementary Education Officer,
Kumbakonam, Thanjavur.
4. The Assistant Elementary Education Officer,
Thiruppananthal,
Thanjavur District.
5. The Assistant Elementary Education Officer,
Thiruvadaimarudur,
Thanjavur District.
6. The Assistant Elementary Education Office,
Thanjavur Town,
Thanjavur District.
7. The Assistant Elementary Education Officer,
Papanasam,
Thanjavur District.

... Respondents in both W.Ps.

PRAYER in W.P. (MD).No.24 of 2015: The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondents herein to regularise the services of the petitioners herein from the date of their respective initial appointment with all arrears of salary, increment, monetary and attendant benefits, in the light of the order dated 03.11.2014 in W.P.No.17644 of 2014 on the file of this Court, within a reasonable time as may be fixed by this Court.

PRAYER in W.P. (MD).No.27 of 2015: The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondents herein to pay the increment, monetary and attendant benefits herein from the date of their respective initial appointment in the light of order dated 03.11.2014 in W.P.No.17644 of 2014 on the file of this Court, within a reasonable time as may be fixed by this Court.

For Petitioners	:	Mr.C.Jeganathan in both WPs
For Respondents	:	Mrs.S.Srimathy
		Special Government Pleader
		in both WPs

COMMON ORDER

These writ petitions are filed by 31 petitioners, who were appointed as Secondary Grade Teachers with B.T. qualification on consolidated pay in the Aided Primary Schools.

<https://hcservices.ecourts.gov.in/hcservices/>

2. By virtue of G.O.(Ms.)No.155, dated 03.10.2002, that



appointment without required qualification was regularised on condition that they should undergo Child Psychology Test. However, neither their past service nor the payment made in excess was protected. But, by virtue of Division Bench judgment, the attempt by the State to recover the excess payment was stayed and even thereafter, there were several writ petitions filed before this Court touching upon G.O.(Ms.)No.155 which was issued consequential to earlier Government Orders in G.O.(Ms.)No.559, dated 11.07.1995 and G.O.(Ms.)No.203, dated 19.03.1996. Therefore, the Division Bench of this Court, after placing the history of passing this G.O., in respect of Secondary Grade Teachers wrongly appointed in Primary School without requisite qualification and subsequent direction to them to get Child Psychology Training, judgment was passed on 21.03.2018, wherein the Honourable Division Bench of this Court has held as follows:

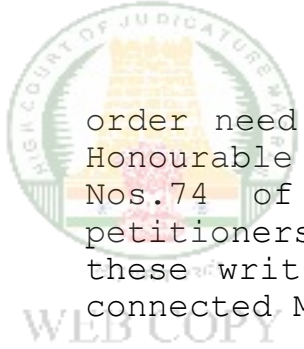
"10. The learned counsel for the respondents/writ petitioners relied on certain other orders passed by various single Benches including one of us (TSSJ) and on perusal of the same, we find that in none of those decisions, the full affect of G.O.Ms.No.155 and the conditions therein have been thoroughly examined. Apart from that, the decision in the case of Pallivasal Primary School has not been specifically noted. Therefore, we are of the considered view that those decisions cannot be referred to advance the case of the respondents/writ petitioners, though some of them have attained finality. Needless to state that if there has been a wrong decision, it cannot be treated as precedent.

12. The learned counsel for the respondents submitted that though there were about 3000 Teachers who were appointed in such improper manner as of now 300 Teachers would be entitled to monitory benefits and as remaining persons were already paid and they were protected by the Division Bench order from the effect of recovery. The learned counsel submitted that the respondent should not be permitted to approach the Government by way of representation."

3. The learned counsel appearing for the writ petitioners would submit that they all fall under the group of 300 teachers, who have been deprived of their monetary benefit, though they do not have any right to seek for the monetary benefit. But they have been given liberty to approach the State seeking parity with the other 2700 Secondary Grade Teachers, who already drawn the payment and excess payment drawn by them will be protected. Therefore, it is requested by the learned counsel for the petitioners herein that the petitioners may also be given the same liberty to make representation to the Government seeking the monetary benefit on par with the other 2700 Secondary Grade Teachers for whom Government has already paid excess salary.

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4. Since the Division Bench of this Court has already covered the said request vide Para-13 of the above judgment, no individual



order need be issued in this writ petition. The observation of the Honourable Division Bench in Para-13 of the judgment in Writ Appeal Nos.74 of 2015 and 957 of 2016 shall be applicable to the petitioners herein, if they are otherwise found fit. Accordingly, these writ petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Director of Elementary Education,
College Road, Chennai 600 009.
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Thanjavur District.
6. The Assistant Elementary Education Office,
Thanjavur Town,
Thanjavur District.
7. The Assistant Elementary Education Officer,
Papanasam,
Thanjavur District.

+ 2 CC TO M/s.VEERA ASSOCIATES, IN SR No. 95450 & 95451
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 95380

AKV

TE/SV/SAR-1 : 12/12/2018 : 4P/11C

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14.11.2018