

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.19120 of 2013

WRIT PETITION No.19121 of 2013

AND

WRIT PETITION No.8921 of 2013

COMMON ORDER:

These writ petitions are disposed of by way of common order since the issue involved is one and the same.

It has been contended by the petitioners that they were initially appointed in pursuance to the selections in the respondent school and the respondent school has submitted proposals to the competent authority for approval and that the competent authority did not approve the appointment of the petitioners on the ground that the surplus aided staff are being adjusted by the competent authority as the ban issued by the Government vide memo dated 20.10.2004 is in vague. Thereafter, the petitioners further contended that when batch of writ petitions were filed challenging the memo dated 20.10.2004 before this Court, this Court was pleased to set aside the said memo in W.P.No.16008 of 2005 vide order dated 22.06.2005. Learned counsel argued that the said memo is prospective in effect, but not retrospective. Thereafter, the State has preferred Writ Appeal No.1578 of 2005 and batch before the Division Bench of this Court, the Division Bench of this Court was pleased to dismiss the writ appeals, vide order dated 29.12.2006. Thereafter, the respondents have further carried the matter to Hon'ble Supreme Court in S.L.P.No.9541 of 2004, and the Supreme Court was pleased to dismiss the SLP vide order dated 06.11.2009. Thereafter, the case of

the petitioners was considered and the State Government issued G.O.Ms.No.21, Education (Ser.PS1) Department, dated 19.03.2012 granting permission for approval of the selections subject to certain conditions. Thereafter, the concerned District Educational Officers had issued consequential proceedings fixing the pay of the petitioners in terms of G.O.Ms.No.100, Education, dated 16.08.2001 placing the petitioners on apprenticeship for a period of two years. Challenging the same, the present writ petitions are filed.

Learned counsel for the petitioners contended that the concerned District Educational Officers ought not to have placed the petitioners on apprenticeship, since the petitioners were already working with the respondent school since 2004 against aided vacancy. When the petitioners cannot be placed under apprenticeship, the petitioners are entitled for regular pay scale and contends that appropriate orders be passed by setting aside the orders passed by the concerned District Educational Officers and direct the respondents to extend the regular pay scale in favour of the petitioners from the date of initial appointment as it was done in respect of the teachers working in the concerned posts.

Learned Government Pleader appearing for the respondents contended that the issue raised by the petitioners is squarely covered by the judgment referred by this Court in W.P.No.805 of 2004, dated 11.12.2009, which was confirmed in W.A.No.202 of 2012, dated 22.08.2013 and contended that appropriate orders be passed.

This Court, having considered the rival contentions made by the learned counsel for the parties, is of the considered view that the issue

raised in the writ petitions is squarely covered by the order dated 11.12.2009 in W.P.No.805 of 2004, which was confirmed in W.A.No.202 of 2012 and hence, the impugned proceedings are liable to be set aside.

Accordingly, the impugned proceedings passed by the concerned District Educational officers in the writ petitions are hereby set aside and the respondents are directed to extend the regular pay scale to the posts held by the petitioners herein, from the date of their initial appointment, instead of placing them under apprenticeship in terms of G.O.Ms.No.100, Education, dated 16.08.2001.

With the above observations, the writ petitions are allowed.
There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

20.12.2018
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