

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos. 32674, 32677, 33054, 33058, 33059 and 33062 of 2019
and

W.M.P.Nos.33086, 33087, 33091, 33092, 33476, 33477, 33482,
33484, 33485, 33486, 33489 and 33490 of 2019

K.Manivannan	.. Petitioner in WP.32674/2019
E.Rajesh Kumar	...Petitioner in WP.32677/2019
G.Chandrasekaran	...Petitioner in WP.33054/2019
A.Pachamuthu	...Petitioner in WP.33058/2019
K.Bhaskaran	...Petitioner in WP.33059/2019
B.Balasundaram	...Petitioner in WP.33062/2019
K.Manivannan	...Petitioner in WP.32674/2019

vs

- 1.State of Tamil Nadu,
Rep. by its Secretary,
Higher Secondary Education Department,
Fort. St.George,
Chennai-600 009.
 - 2.The Director of School Education,
DPI Campus,
College Road,
Chennai-600 006.R1 & R2 in all WPs
 - 3.The Chief Educational Officer,
Villupuram District.R3 Respondents in WP.32674/2019
32677/2019
- The Chief Educational Officer
Vellore DistrictR3 Respondent in WP.33054/2019
33059/2019
- The Chief Educational Officer
KrishnagiriR3 Respondent in WP.No.33058/2019
33062/2019

Prayer in W.P.No. 32674 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to pass orders, directions, writs in particular a Writ of Mandamus, directing the respondents herein to include the name of the petitioner to the post of Higher Secondary School Headmaster pursuant to the proceedings of the second respondent herein in Na.Ka.

No.3720/W1/E1/2019 dated 16.11.2019 by counting the services of the petitioner with effect from 08.07.2004 by following the judgment of this Court in W.P.No.4991 of 2015 and W.P.NO.(M.D) No.21316 of 2015 by regularizing the service of the petitioner in the post of P.G. Assistant with effect from 08.07.2004 for the purposes of seniority alone with consequential service benefits.

Prayer in W.P.No. 32677 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to pass orders, directions, writs in particular a Writ of Mandamus, directing the respondents herein to include the name of the petitioner to the post of Higher Secondary School Headmaster pursuant to the proceedings of the second respondent herein in Na.Ka. No.3720/W1/E1/2019 dated 16.11.2019 by counting the services of the petitioner with effect from 09.03.2005 by following the judgment of this Court in W.P.No.4991 of 2015 and W.P.NO.(M.D) No.21316 of 2015 by regularizing the service of the petitioner in the post of P.G. Assistant with effect from 09.03.2005 for the purposes of seniority alone with consequential service benefits.

Prayer in W.P.No.33054 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to pass orders, directions, writs in particular a Writ of Mandamus, directing the respondents herein to include the name of the petitioner to the post of Higher Secondary School Headmaster pursuant to the proceedings of the second respondent herein in Na.Ka. No.3720/W1/E1/2019 dated 16.11.2019 by counting the services of the petitioner with effect from 25.06.2004 by judgment of this Court in W.P.No.4991 of 2015 dated 30.07.2019 and W.P.NO.(M.D) No.21316 of 2015 dated 30.07.2019 by regularizing the service of the petitioner in the post of P.G. Assistant with effect from 25.06.2004 for the purposes of seniority alone with consequential service benefits.

Prayer in W.P.No. 33058 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to pass orders, directions, writs in particular a Writ of Mandamus, directing the respondents herein to include the name of the petitioner to the post of Higher Secondary School Headmaster pursuant to the proceedings of the second respondent herein in Na.Ka. No.3720/W1/E1/2019 dated 16.11.2019 by counting the services of the petitioner with effect from 09.07.2004 by judgment of this Court in W.P.No.4991 of 2015 and W.P.NO.(M.D) No.21316 of 2015 dated 30.07.2019 by regularizing the service of the petitioner in the post of P.G. Assistant with effect from 09.07.2004 for

the purposes of seniority alone with consequential service benefits.

Prayer in W.P.No. 33059 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to pass orders, directions, writs in particular a Writ of Mandamus, directing the respondents herein to include the name of the petitioner to the post of Higher Secondary School Headmaster pursuant to the proceedings of the second respondent herein in Na.Ka. No.3720/W1/E1/2019 dated 16.11.2019 by counting the services of the petitioner with effect from 25.06.2004 by judgment of this Court in W.P.No.4991 of 2015 and W.P.NO.(M.D) No.21316 of 2015 dated 30.07.2019 by regularizing the service of the petitioner in the post of P.G. Assistant with effect from 25.06.2004 for the purposes of seniority alone with consequential service benefits.

Prayer in W.P.No. 33062 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to pass orders, directions, writs in particular a Writ of Mandamus, directing the respondents herein to include the name of the petitioner to the post of Higher Secondary School Headmaster pursuant to the proceedings of the second respondent herein in Na.Ka. No.3720/W1/E1/2019 dated 16.11.2019 by counting the services of the petitioner with effect from 08.07.2004 by judgment of this Court in W.P.No.4991 of 2015 and W.P.NO.(M.D) No.21316 of 2015 dated 30.07.2019 by regularizing the service of the petitioner in the post of P.G. Assistant with effect from 08.07.2004 for the purposes of seniority alone with consequential service benefits.

For Petitioners : M/s.Dakshayani Reddy
(In all W.Ps)

For Respondents : M/s.R.Kavitha
(In all W.Ps) Government Advocate

COMMON ORDER

The case of the petitioners is that they are Post Graduate Assistants working in Tamil Nadu Higher Secondary Educational Service and the method of appointment to the said post is by a competitive examination to be conducted by the Teachers' Recruitment Board. Till 2001, the post of P.G. Assistant is filled by following the rule of Reservation and through the competitive examination conducted by the teachers' Recruitment Board. From 2003, the Government took a decision to down grade

the post of P.G. Assistant vide G.O.Ms.No.100 dated 27.06.2003. It is pertinent to point out that the said decision was only taken from the point of view of the financial constraints on the Government to fill up the post of the P.G. Assistant on a regular Time Scale of Pay. A down-graded post of Junior Grade P.G.Assistant has to be filled up on a consolidated pay of Rs.4,500/- for a period of 5 years and thereafter, the regularization to be done by bringing the said teachers to the Regular Time Scale of pay on the completion of 5 years. Based upon the decision of the Government, the teachers recruitment Board issued Notification and the petitioners were selected to the post of P.G. Assistant (Chemistry) and assigned the rank by the TRB and they joined the service to the post of Junior Grade P.G. Assistant on various dates during the year 2004-2005 they were appointed on a regular basis after undergoing competitive examination and after the following Rule of Reservation and can never be treated as irregular or illegal appointments and the service of the petitioners were regularized for the first time, the respondents called for names of P.G. Assistants who were appointed between the years 2003 to 2006. Since, the petitioners did joined the service as on 09.03.2005, the petitioners also gave their name for the purpose of inclusion in the panel for promotion to the post of Higher Secondary Head Master. Instead of including the name of the petitioners, who have been appointed as early as 09.03.2005, the respondents herein published the seniority list dated 16.11.2019 whereby the P.G. Assistants who have been appointed after the petitioners, has been included. The respondents have failed to take the initial date of appointment of the petitioners as on 09.03.2005 and have only reckoned the date of regularization of the petitioners which is 01.06.2006 for the purpose of inclusion in the panel for promotion. Hence, the present writ petitions were filed to challenge the proceedings of the second respondent.

2.The learned counsel for the petitioner submitted that on an earlier occasion the petitioners approached this Court in W.P.No.4991 of 2015, to direct the first respondent herein to regularize the services of the petitioners from their initial dates of appointments till 01.06.2006 with all consequential monetary and service benefits. On 30.07.2019 this Court issued a direction to the first respondent herein regularize the service of the petitioners from the date of entry into service for the purpose of seniority and extend all the monetary benefits flowing thereof, if any, within a period of two months. Aggrieved against the said order the respondent filed a writ appeal and the same is still pending. He further submitted that this Court may issue directions to the respondent to implement

the paragraph No.5 within a reasonable time as fixed by this Court.

3. Mrs. kavitha, learned Government Advocate appearing for the respondents submitted that as against the order of this Court in W.P.No. 4991 of 2015 dated 30.07.2019, the respondents had filed a Writ Appeal and the same is pending. She further submitted that the respondents are agreeable to implement the paragraph No.5.

4. Considering the limited request made by the learned counsel for the petitioners, I am inclined to issue direction to the respondents to implement paragraph No.5 of the order dated 30.07.2019 in W.P.No.4991 of 2015 within a period of twelve (12) weeks from the date of receipt of a copy of this order. With the above directions, the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

tta

To,

1.The Secretary,
Government of Tamil Nadu,
Higher Secondary Education Department,
Fort. St.George,
Chennai-600 009.

2.The Director of School Education,
DPI Campus,
College Road,
Chennai-600 006.

3.The Chief Educational Officer,
Villupuram District.

4.The Chief Educational Officer
Vellore District

5.The Chief Educational Officer
Krishnagiri

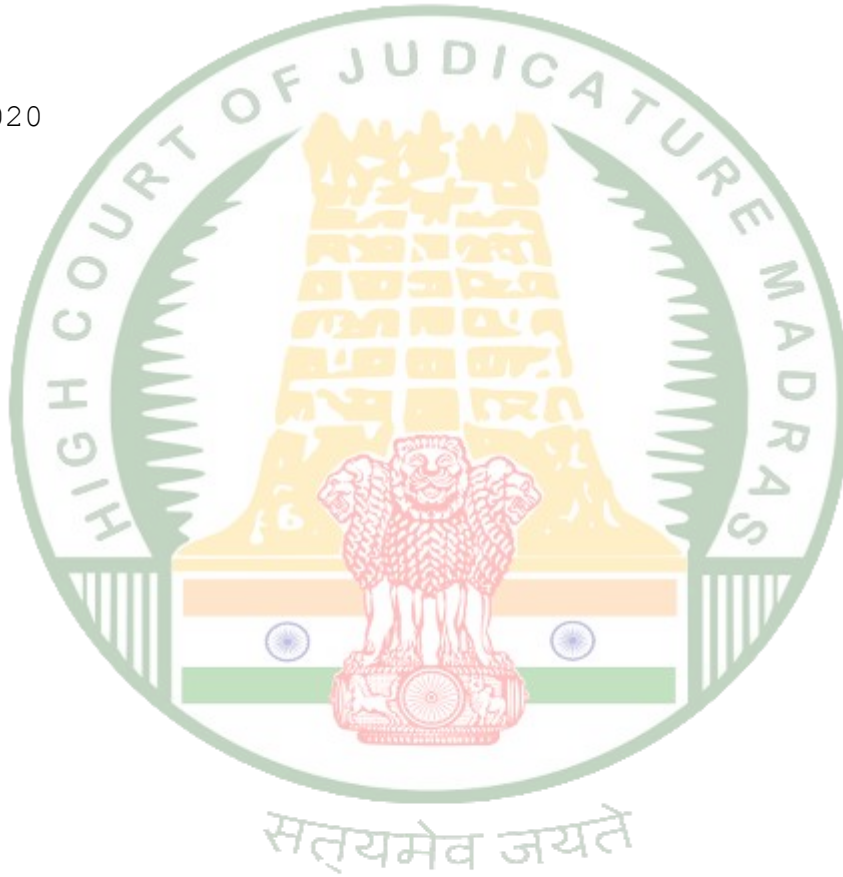
+6 ccs to Ms.DakshayaniReddy Advocate sr98364

+1 cc to Government Pleader sr 99402

W.P.Nos. 32674, 32677, 33054,

33058, 33059 and 33062 of 2019

aa21/01/2020



WEB COPY