



W.P.(MD)Nos.18198, 18199, 20486, 20488 and 20489/2013 & W.P.(MD)Nos.317, 13513, 13514, 13971 and 13972 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2019

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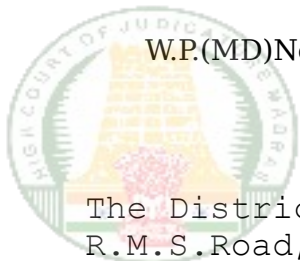
CORAM:  
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)Nos.18198, 18199, 20486, 20488 and 20489 of 2013  
and  
M.P. (MD)Nos.2, 2, 1, 2, 1, 2, 1 and 2 of 2013  
&  
W.P. (MD)Nos.317, 13513, 13514, 13971 and 13972 of 2014  
and  
M.P. (MD)Nos.1, 2, 1, 2, 1 and 2 of 2014

|                       |                                       |
|-----------------------|---------------------------------------|
| V.Paramasivam         | ... Petitioner in WP(MD). 18198/ 2013 |
| P. Savithiri          | ... Petitioner in WP(MD). 18199/ 2013 |
| T.M. Ramaprabha       | ... Petitioner in WP(MD). 20486/ 2013 |
| K.S. Asha Mai         | ... Petitioner in WP(MD). 20488/ 2013 |
| L.K. Mahalakashmi     | ... Petitioner in WP(MD). 20489/ 2013 |
| A.Christopher Prasath | ... Petitioner in WP(MD). 317/ 2014   |
| K. Mohamed Jaffar     | ... Petitioner in WP(MD). 13513/ 2014 |
| A.C.Vaseela Begam     | ... Petitioner in WP(MD). 13514/ 2014 |
| A. Indira             | ... Petitioner in WP(MD). 13971/ 2014 |
| R. Ramakrishnan       | ... Petitioner in WP(MD). 13972/ 2014 |

- Vs. -

1. The State of Tamil Nadu,  
Rep by its Secretary to Government,  
Education Department,  
Fort St. George, Chennai- 009.
  2. The Director of School Education,  
College Road,  
Chennai- 006.
- ..Respondents 1 and 2 in all the WPs'



The District Elementary Educational Officer,  
R.M.S.Road,  
Madurai- 001.

..Respondent No.3 in WP(MD)  
Nos.18198, 18199, 20486, 20488  
and 20489 of 2013.

The Assistant Elementary Educational Officer,  
Madurai South.  
Madurai.001.

..Respondent No.4 in WP(MD)  
Nos.18198, 18199, 20486 OF 2013.

The Assistant Elementary Educational Officer,  
Sivagangai District.

..Respondent No.4 in WP(MD)  
No.20488, 20489 OF 2013.

1. The District Educational Officer,  
Usilampatti Educational District,Usilampatti,  
Madurai District-625 532.

2. The Correspondent,  
St.Clares Higher Secondary School,Karmathur,  
Usilampatti Taluk, Madurai District -625 514.

..Respondents 3 and 4 in WP(MD)No.317 OF 2014

The District Educational Officer,  
Thirunelveli Educational District, Thirunelveli.  
Thirunelveli District.

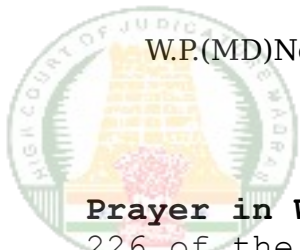
.. Respondent No.3 in WP(MD)No.13513,  
13514, 13971 and 13972 of 2014.

The Correspondent  
The M.N.Abdul Rahaman Higher Secondary School,  
Khadir Nagar, Palayamkottai,  
Thirunelveli District 627 011.

..Respondent No. 4 in WP(MD)No.13513 and 13514 of 2014

The Correspondent  
The Muslim Higher Secondary School,  
Melapalayam, Thirunelveli District 627 005.

..Respondent No.4 in WP(MD)No.13971 and 13972 of 2014



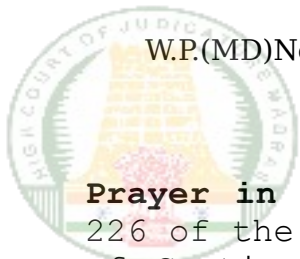
**Prayer in WP(MD). 18198/ 2013 :** Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus or any other appropriate writ order to call for the records relating to the impugned order passed by the 3rd respondent in his Na.Ka.NO. 1063/A1/2013 dt. 08.07.2013 quash the same in so far as the serial No. 1 is concerned and to direct the respondents to pay the salary for the period from 11.03.1998 to 01.06.2003 to the petitioner and to pay the other benefits namely selection grade etc and thus render justice.

**Prayer in WP(MD). 18199/ 2013 :** Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus or any other appropriate writ order to call for the records relating to the impugned order passed by the 3rd respondent in his Na.Ka.NO. 1063/A1/2013 dt. 08.07.2013 quash the same in so far as the serial No. 2 is concerned and to direct the respondents to pay the salary for the period from 03.04.1998 to 01.06.2003 to the petitioner and to pay the other benefits namely selection grade etc and thus render justice.

**Prayer in WP(MD). 20486/ 2013 :** Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 3rd respondent in his Na.Ka. No. 1063/A1/2013 dated 08.07.2013 and quash the same in so far as the serial no. 4 is concerned and to direct the respondents to pay the salary for the period from 04.03.1998 to 01.06.2003 to the petitioner and to pay the other benefits namely selection grade etc and thus render justice.

**Prayer in WP(MD). 20488/ 2013 :** Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus call for the records relating to the impugned order passed by the 3rd respondent in his Na.Ka.No.1063/A1/dated 08.07.2013 and quash the same in so far as the serial no.5 is concerned and to direct the respondents to pay the salary for the period form 12.3.1998 to 01.06.2003 to the petitioner and to pay the other benefits namely selection grade etc.

**Prayer in WP(MD). 20489/ 2013 :** Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 3rd respondent in his Na.Ka. No. 1063/A1/2013 dated 08.07.2013 and quash the same in so far as the serial no. 3 is concerned and to direct the respondents to pay the salary for the period from 05.03.1998 to 01.06.2003 to the petitioner and to pay the other benefits namely selection grade etc and thus render justice.



**Prayer in WP(MD) . 317/ 2014 :** Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus or any other appropriate writ order to call for the records relating to the order passed by the 3rd respondent dated 08.08.2013 in his OO.mu.No. 3053/a4/2013 and quash the same and to direct the respondents 1 to 3 to pay the salary for the period from 03.06.1997 to 01.06.2003 to the petitioner and to pay the other benefits namely selection grade etc and thus render justice.

**Prayer in WP(MD) . 13513/ 2014 :** Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records relating to the order passed by the 3rd respondent dated 24.10.2013 in his Oo.Mu.NO.6508/A5/2013 and quash the same and to direct the respondents 1 to 3 to pay the salary for the period from 2.6.1997 to 1.6.2003 to the petitioner and to pay the other benefits namely selection grade etc and thus render justice.

**Prayer in WP(MD) . 13514/ 2014 :** Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus or any other appropriate writ order to call for the records relating to the order passed by the 3rd Respondent dated 24.10.2013 in his OO.Mu. No. 6508/A5/2013 and quash the same and to direct the respondents 1 to 3 to pay the salary for the period from 02.06.1997. to 01.06.2003 to the petitioner and to pay the other benefits namely selection grade etc and thus render justice.

**Prayer in WP(MD) . 13971/ 2014 :** Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records relating to the order passed by the 3rd respondent dated 8.8.2012 in his OO.MU.NO.2803/A5/2012 and quash the same and to direct the respondents 1 to 3 to pay the salary for the period from 30.3.1998 to 1.6.2003 to the petitioner and to pay the other benefits namely selection grade etc and thus render justice.

**Prayer in WP(MD) . 13972/ 2014 :** Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 3rd Respondent dated 08.08.2012 in his OO.MU.No. 2803/A5/2012 and quash the same and to direct the Respondents 1 to 3 to pay the salary for the period from 30.03.1998 to 01.06.2003 to the petitioners and to pay the other benefits namely selection grade etc and thus render justice.



W.P.(MD)Nos.18198, 18199, 20486, 20488 and 20489/2013 & W.P.(MD)Nos.317, 13513, 13514, 13971 and 13972 of 2014

For Petitioner  
in all WPs'

: Mr.K.Vadivelu

For Respondents  
in all WPs'

: Mrs.S.Srimathy,  
Special Government Pleader.

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For Respondent 4  
in WP(MD)Nos.317, 13513,  
13514, 13971 and 13972 of 2014 : No appearance

**COMMON ORDER**

The orders passed by the third respondent in respect of the rejection of his claim in payment of salary with effect from the date of their appointment, are under challenge in these Writ Petitions.

2.The learned counsel appearing on behalf of the writ petitioners states that the writ petitioners were initially appointed as Secondary Grade Teacher.

3.The grievances of the writ petitioners are that the approval was granted by the authority competent. However, the arrears of salary due to the writ petitioners from the date of their appointment has not been paid. The representation submitted by the writ petitioners in this regard was rejected by the third respondent, stating that the order passed by the Principal Seat of this Court in W.P.No.28647 of 2015, dated 11.09.2015 is not applicable to the writ petitioners. However, the matter went by way of an appeal before the Hon'ble Division Bench passed an order in W.A.(MD)Nos.74 of 2015 and 957 of 2016 on 21.03.2018. The relevant portion of the Judgment is extracted hereunder:-

*"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 effect 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.*



11. In the light of the above reasoning, we are of the considered view that the order passed by the Writ Court directing disbursement of salary from the date of original appointment, cannot be sustained, in the light of explicit condition imposed in G.O.Ms.No.155, which was upheld by the Division Bench in a Public Interest Litigation. Thus, for the above reasons, the writ appeals filed by the department has to be allowed.

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 monetary 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 be permitted to approach the Government by way of representation.

13. We make no positive observation on this request. But it is always open to the respondents/writ petitioner to approach the Government, if they so desire. For the above reasons the writ appeals are allowed and the impugned orders are set aside and consequently, the writ petitions are dismissed. No costs. Consequently, M.P.(MD)Nos.1 and 2 of 2015 and C.M.P.(MD)No.5749 of 2016 are closed."

4. In view of the Judgment of the Hon'ble Division Bench, cited supra, the cases of the writ petitioners are to be reconsidered with reference to the facts and circumstances. Accordingly, the second respondent is directed to reconsider the cases of the writ petitioners in the light of the judgment, cited supra, and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. The writ petitioners are permitted to submit a fresh representation and all other relevant documents along with the order passed in these writ petitions.

5. Accordingly, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

SD/-  
ASSISTANT REGISTRAR (CO)

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W.P.(MD)Nos.18198, 18199, 20486, 20488 and 20489/2013 & W.P.(MD)Nos.317, 13513, 13514, 13971 and 13972 of 2014

To

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

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

3.The District Elementary Educational Officer,  
R.M.S.Road, Madurai-625 001.

4.The Assistant Elementary Educational Officer,  
Madurai South, Madurai-625 001.

5.The Assistant Elementary Educational Officer,  
Sivagangai District.

6.The District Educational Officer,  
Usilampatti Educational District,Usilampatti,  
Madurai District-625 532.

7.The District Educational Officer,  
Thirunelveli Edcuaional District, Thirunelveli.  
Thirunelveli District.

9CC'S TO MR. A.S. MUJIBUR RAHMAN, ADVOCATE  
SR 81249,81255, 81252, 81253, 81250 AND 81254.

1CC TO THE SPL GOVT PLEADER SR 81350,81349,81347 AND 81346

**W.P. (MD)Nos.18198, 18199, 20486,**  
**20488 and 20489 of 2013**  
**&**  
**W.P. (MD)Nos.317, 13513, 13514,**  
**13971 and 13972 of 2014**  
**09.08.2019**

myr  
JM/18.09.2019/7P/18C