



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2019

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CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P. (MD) .Nos.8484, 8485, 8486, 8487 and 8488 of 2013
and
M.P. (MD) Nos.1,1,1,1 and 1 of 2013

Mr.R.Chellapandian,
Secondary Grade Teacher,
Senaithailaivar Higher Secondary School,
Vikramasingapuram-627 425
Ambasamudram Taluk,
Tirunelveli District.

... Petitioner
in W.P. (MD) .No.8484 of 2013

Mrs.Rose Mary Angelina,
Secondary Grade Teacher,
Senaithailaivar Higher Secondary School,
Vikramasingapuram-627 425.
Tirunelveli District.

... Petitioner
in W.P. (MD) .No.8485 of 2013

Mr.R.Paul Durai,
Secondary Grade Teacher,
St.Anne's Higher Secondary School,
Koodangulam-627 106.
Tirunelveli District.

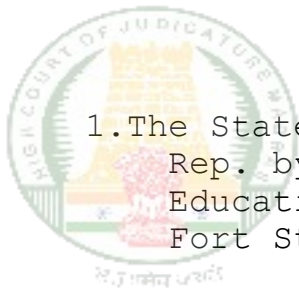
... Petitioner
in W.P. (MD) .No.8486 of 2013

P.Chidambaravadivu,
Secondary Grade Teacher,
Senaithailaivar Higher Secondary School,
Vikramasingapuram-627 425.
Ambasamudram Taluk, Tirunelveli District.

... Petitioner
in W.P. (MD) .No.8487 of 2013

Mrs.P.Veeralakshmi,
Secondary Grade Teacher,
Senaithailaivar Higher Secondary School,
Vikramasingapuram-627 425.
Ambasamudram Taluk, Tirunelveli District.

... Petitioner
in W.P. (MD) .No.8488 of 2013



1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Education Department,
Fort St. George, Chennai-600 009.
2. The Director of School Education,
College Road, Chennai-600 006.
3. The District Educational Officer,
Cheranmahadevi at Tirunelveli District.

... Respondents 1 to 3 in all writ petitions

4. The Correspondent,
Senaithailaivar Higher Secondary School,
Vikramasingapuram-627 425.
Ambasamudram Taluk,
Tirunelveli District.

... 4th Respondent in
W.P.(MD) Nos. 8484, 8485, 8487
and 8488 of 2013

5. The Correspondent,
St. Anne's Higher Secondary School,
Koodangulam,
Tirunelveli District.

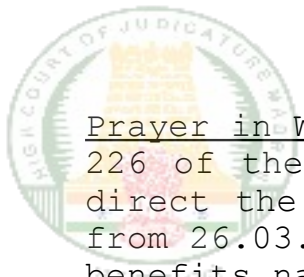
... 4th Respondent
in W.P.(MD) No. 8486 of 2013

Prayer in W.P.(MD) No. 8484 of 2013: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to pay the difference salary for the period from 11.03.1996 to 01.06.2003 to the petitioner and to pay the other benefits namely, selection grade etc.

Prayer in W.P.(MD) No. 8485 of 2013: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to pay the difference salary for the period from 02.03.1998 to 01.06.2003 to the petitioner and to pay the other benefits namely, selection grade etc.

Prayer in W.P.(MD) No. 8486 of 2013: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to pay the difference salary for the period from 24.06.1997 to 01.06.2003 to the petitioner and to pay the other benefits namely, selection grade etc.

Prayer in W.P.(MD) No. 8487 of 2013: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to pay the difference salary for the period from 02.03.1998 to 01.06.2003 to the petitioner and to pay the other benefits namely, selection grade etc.



Prayer in W.P.(MD)No.8488 of 2013: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to pay the difference salary for the period from 26.03.1998 to 01.06.2003 to the petitioner and to pay the other benefits namely, selection grade etc.

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For Petitioners
(in all petitions) : Mr.A.S.Mujibur Rahman

For Respondents
(in all petitions) : Mrs.S.Srimathy
Special Government Pleader

COMMON ORDER

The relief sought for in these writ petitions is for a direction to the respondents to pay the difference salary for the period from 11.03.1996 to 01.06.2003, 02.03.1998 to 01.06.2003, 24.06.1997 to 01.06.2003, 02.03.1998 to 01.06.2003 and 26.03.1998 to 01.06.2003, respectively to these writ petitioners.

2.The learned counsel appearing on behalf of the writ petitioners states that the petitioners were initially appointed as secondary Grade Teacher on 11.03.1996, 02.03.1998, 24.06.1997, 02.03.1998 and 26.03.1998 respectively, in the fourth respondent-Schools respectively, which are the Aided Schools and they were handling classes from VI to IX Standards.

3.The grievance of the writ petitioners is that the approval was granted by the authority competent in the year 2003. However, the arrears of salary due to the writ petitioners from the date of their appointment has not been paid. In this regard, they have sent a representation to the authority competent on 12.04.2013. The said representation is pending, since the order passed by 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 case of the writ petitioners is to be reconsidered with reference to the facts and circumstances. Accordingly, the second respondent is directed to reconsider the case 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. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)



To

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

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

3.The District Educational Officer,
Cheranmahadevi at Tirunelveli District.

4.The Correspondent,
Senaithailaivar Higher Secondary School,
Vikramasingapuram-627 425.
Ambasamudram Taluk,
Tirunelveli District.

5.The Correspondent,
St.Anne's Higher Secondary School,
Koodangulam,
Tirunelveli District.

+5. C.C. to M/S.A.S.Mujibur Rahman, Advocate SR.No. 77861
+1 cc to Special Government Pleader, SR.No. 77925

W.P. (MD) .Nos.8484, 8485, 8486,
8487 and 8488 of 2013
25.07.2019

sjj

JM/20.08.2019/5P/12C