

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 26.03.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P (MD) No.17877 of 2015**

R.Mary Selvarani

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Department of School Education,
Fort St. George, Secretariat,
Chennai - 600 009.

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

3.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

4.The District Educational Officer,
Nagercoil, Kanyakumari District.

5.Little Flower Girls Higher Secondary School,
Rep. by its Headmaster and Correspondent,
Ramanputhur, Nagercoil - 629 004,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the first respondent to consider the petitioner's representation, dated 04.12.2014 and pay salary for the period from 20.12.1986 to 31.05.1995 and include the entire period of service from 20.12.1986 to 31.05.1995 for the purpose of determining terminal benefits.

For Petitioner : Mr.R.Subramanian

For RR 1 to 4 : Mrs.S.Srimathy,
Special Government Pleader.

For R - 5 : Mr.R.T.Arivukumar

ORDER

This Writ Petition has been filed seeking a direction to the first respondent to pay salary to the petitioner for the period from 20.12.1986 to 31.05.1995 and include the entire period for the purpose of determining terminal benefits by considering her representation, dated 04.12.2014.



2. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 4 and the learned counsel appearing for the fifth respondent.

3. The case of the petitioner is that though she was appointed as B.T Assistant (English) in the fifth respondent School on 20.12.1986 and worked till 31.05.1995, she was not paid any salary for the said period. Thereafter, once again she was appointed as a Secondary Grade Teacher in the fifth respondent School on 01.06.1995 and finally promoted as P.G Assistant on 22.09.1998. Seeking to pay salary for the period from 20.12.1986 to 31.05.1995, the petitioner sent a representation, dated 04.12.2014 to the respondents. Since the same has not been considered so far, the petitioner has filed the present Writ Petition.

4. The fourth respondent has filed a counter affidavit, wherein, the relevant paragraph No.5 read as follows:-

"5. I submit that the petitioner from 20.12.1986, as stated by the petitioner, there was no additional post in that School to provide for the petitioner, other than the post already allotted by the educational authorities. Hence, the petitioner cannot be fitted, anywhere and her claim cannot be sustained. To push up the result and other curricular activities, the incumbent was utilized by the management for which she was paid separately. Which the individual cannot claim as a matter of right, till the authorities provide a sanctioned post to the individual. Then for the academic year 95 - 96 ie., from 01.06.1995 only there is regular vacancy in the cadre of Secondary Grade Teacher arises in the School, to which this individual is posted. Otherwise no other separate post will be given to the individual, and from 01.06.1995 onwards the petitioner was paid regular time scale and further promotion was also given as per requirement in the management."

5. Such statement made in the counter-affidavit has been refuted by the learned counsel for the petitioner.

6. In such view of the matter, this Court, without going into the merits of the petitioner's claim, directs the first respondent to consider the representation of the petitioner, dated 04.12.2014 seeking to pay salary for the period from 20.12.1986 to 31.05.1995 and pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.



7. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

ps

To

1. The Principal Secretary,
Department of School Education,
Fort St. George, Secretariat,
Chennai - 600 009.
2. The Director of School Education,
DPI Campus, College Road,
Nungambakkam,
Chennai - 600 006.
3. The Chief Educational Officer,
Nagercoil, Kanyakumari District.
4. The District Educational Officer,
Nagercoil, Kanyakumari District.
5. The Headmaster and Correspondent,
Little Flower Girls Higher Secondary School,
Ramanputhur, Nagercoil - 629 004,
Kanyakumari District.

+1CC TO MR.R.SUBRAMANIAN, Advocate Sr. No. 56803

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 57218

W.P (MD) No.17877 of 2015

26.03.2019

AVS (CO)

TR (30.04.2019) 3P 8C