

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

DATED: 24.04.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN**WP(MD)No.22223 of 2016**

S.Mohamed Ansari

... Petitioner

Vs.

1.The Chief Educational Officer,
Trichy,
Trichy District.

2.The Headmaster,
Government Board Higher Secondary School,
Valanadu,
Manapparai Taluk,
Trichy District.

3.The Accountant General,
(Accounts and Entitlements),
No.261, Anna Salai,
Chennai - 600 018.

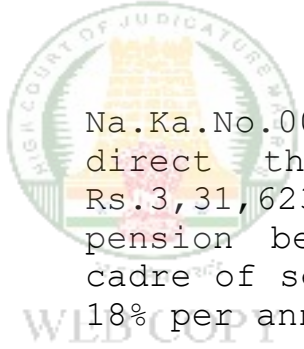
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 1st respondent in his proceedings in Na.Ka.No.008426/A1/2010 dated 03.01.2014 and quash the same and direct the respondents to refund the recovered amount of Rs.3,31,623/- and further direct the respondents to release the pension benefits with all other consequential benefits in the cadre of secondary grade scale of pay with interest at the rate of 18% per annum.

For Petitioner	:	Mr.V.Panner Selvam
For Respondent	:	Mrs.S.Srimathy
No.1 and 2		Special Government Pleader
For Respondent		
No.3	:	Mr.P.Gunasekaran

ORDER

This writ petition has been filed seeking a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 1st respondent in his proceedings in



Na.Ka.No.008426/A1/2010 dated 03.01.2014 and quash the same and direct the respondents to refund the recovered amount of Rs.3,31,623/- and further direct the respondents to release the pension benefits with all other consequential benefits in the cadre of secondary grade scale of pay with interest at the rate of 18% per annum.

2.Heard the learned counsel appearing for the petitioner and the respective learned counsel appearing for the respondents.

3.According to the learned counsel appearing for the petitioner, the issue involved in this writ petition has already been decided by this Court in the case of G.Jenova Prakasam Vs. The Secretary to Government , Education Department and others dated 11.02.2013 [WA(MD)No.583 of 2011] and hence, the learned Counsel prayed for a similar direction in this writ petition also.

4.The relevant portions of the said judgment are extracted hereunder:

"3.The learned Counsel for the writ appellant relied upon a decision (in the case of a person similarly placed) reported in R.Sankaran V. The Secretary, Education Department), etc and others(2004 Writ.L.R.204). It is the contention of the writ appellant that at the time of appointment as Drawing Teacher SSLC was not a qualification and when the subsequent Government Order mandates the qualification as passing SSLC that will operate only prospectively and therefore, non possession of qualification of SSLC on the date of her appointment would not affect her pay fixed at the time of her appointment.

4.In the decision in R.Sanakaran V. The Secretary, Education Department Etc and others, reported in 2004 Writ L.R.204, the question arose for consideration was as to whether the benefits already accrued in favour of the petitioner. It was held that the general rule of interpretation is any subsequent revision of qualifications cannot affect the already existing incumbents. Based upon the order passed in the writ petition the Government also issued G.O.Ms.No.14 School Education Department dated 27.04.2005 granting exemption to one Sankaran, the petitioner in the reported decision(cited supra), who did not acquire the qualification of SSLC. The petitioner herein, who is similarly placed, has raised a pertinent question that similar protection should have been accorded to her also, by granting exemption, assuming that she is expected to acquire the necessary qualification. This contention merits acceptance.



5. We unhesitatingly agree with the contention of the writ appellant and the writ appellant, being similarly placed with the said Sankaran, should also have the same benefits. Therefore, the order passed by the fourth respondent on 09.11.2019 is set aside and the writ appeal is allowed."

5. The learned Counsel appearing for the respective respondents have no serious objection.

6. In view of the submission made on either side, this writ petition is disposed of, in line with the judgment cited supra. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Chief Educational Officer,
Trichy,
Trichy District.

2. The Headmaster,
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Valanadu,
Manapparai Taluk,
Trichy District.

3. The Accountant General,
(Accounts and Entitlements),
No.261, Anna Salai,
Chennai - 600 018.

+1 CC to M/s.V.PANNEER SELVAM, Advocate (SR-62661[F] dated 25/04/2019)

+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-63004[F] dated 26/04/2019)

+1 CC to M/s.SPL GP (SR-62976[F] dated 26/04/2019)
DSK

WP (MD) No. 22223 of 2016
24.04.2019