



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2019

CORAM:

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

W.P. (MD) No. 15726 of 2014

S.Sathishkumar

... Petitioner

Vs.

1.The Secretary to Government,
School Education Department,
Fort St. George,
Chennai.

2.The Director of Elementary Education,
DPI Campus,
Chennai-6.

3.The District Elementary Educational Officer,
Karur District,
Karur.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to regularize the service of the petitioner in the post of Secondary Grade Teacher w.e.f 29.09.2004 and to revise the scale of pay accordingly and further directing the respondents to pay the difference of salary between the regular time scale of pay and the consolidated pay between 29.09.2004 and 31.05.2006 for the post of Junior Grade Secondary Grade Teacher and secondary Grade Teacher with all attendant and other benefits including seniority to the petitioner.

For Petitioner : Mr.B.Saravanan

For R1 to R5 : Mrs.S.Srimathi

Special Government Pleader



ORDER

The relief sought for in the present writ petition is for a direction to direct the respondents to regularize the service of the writ petitioners for the post of Secondary Grade Teacher with effect from 29.09.2004 and revise the scale of pay and further pay the difference of salary in the regular time scale of pay for the years from 2004 to 2006.

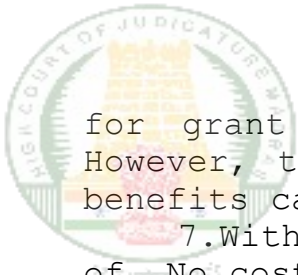
2.The writ petitioner was initially appointed as Secondary Grade Teacher on consolidated pay salary. However, after two years, the services of the writ petitioner was regularized vide proceeding dated 28.09.2004. Thereafter, the writ petitioner is working as regular employee in the sanctioned post in the time scale of pay.

3.The learned counsel for the writ petitioner state that the services of the writ petitioner ought to have been regularized with effect from the date of initial appointment. Thus, the writ petitioner is constrained to move the present writ petition.

4.The learned Special Government Pleader appearing on behalf of the respondents state that admittedly the writ petitioner was appointed as Secondary Grade Teacher on consolidated basis with the salary of Rs.3000/- at Panchayat Union Elementary School. Thus, the initial appointment was not made in accordance with the Rules in force. However, considering the case of the writ petitioner, the benefit of regularization was granted with effect from the year 2006. Thus, the writ petitioner cannot seek any further concession seeking retrospective regularization with all monitory benefits.

5.This Court is of the considered opinion that admittedly, the petitioner was appointed on consolidated pay salary, further the services of the writ petitioner was regularized with effect from the year 2006. Thus, the benefit of retrospective regularization cannot be granted in view of the fact that the initial appointment of the writ petitioner was not made strictly in accordance with the recruitment Rules in force.

6.This being the factum, the relief as such sought for to grant retrospective regularization cannot be granted. However, the writ petitioner may be eligible to get the benefit of the counting of 50% of the services rendered by him on consolidated basis for the purpose of calculating the qualifying service for grant of pensionary benefits. However, in this regard, the writ petitioner is at liberty to submit a fresh representation to the competent authority with reference to Rule of 11(4) of the Tamil Nadu Pension Rules, 1978 for the counting of the 50% of the services for grant of pensionary benefits alone, if any such representation is received from the writ petitioner, the competent authorities are directed to consider the same strictly in accordance with the terms and conditions stipulated in Rule 11(4) of the Tamil Nadu Pension Rules



for grant of benefit of the counting of 50% of the services. However, the relief for retrospective regularization with monitory benefits cannot granted.

7. With these observations, this writ petition stand disposed of. No costs.

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Sd/-

Assistant Registrar (P AND A)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Secretary to Government,
School Education Department,
Fort St. George,
Chennai.

2. The Director of Elementary Education,
DPI Campus,
Chennai-6.

3. The District Elementary Educational Officer,
Karur District,
Karur.

+1 CC to M/s.B.SARAVANAN, Advocate (SR-77435[F] dated 25/07/2019)

W.P. (MD) No.15726 of 2014
23.07.2019

_KK/SAR/16.08.2019/3P-5C/