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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.07.2019

CORAM
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P[MD]Nos.20574, 20576, 20577 & 20580 of 2014
and
M.P.[MD]Nos.1, 1, 1 & 1 of 2014

G.R.Surendran : Petitioner in W.P.[MD]No.20574/14

K.Kathirvel : Petitioner in W.P.[MD]No.20576/14

B.Manivannan : Petitioner in W.P.[MD]No.20577/14

Amalita Primrose : Petitioner in W.P.[MD]No.20580/14

Vs.

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

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

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

4.The Manager and Correspondent,
The Kalidass Middle School,
Paramakudi,
Ramnad District. ... Respondents in all Cases

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents 1 to 3 to pass orders on the representation of the petitioner dated 13.11.2014 and to pay the salary for the period from 01.10.1999 to 01.06.2003 to the petitioner and to pay the other benefits namely selection grade etc.

For Petitioner : Mr.A.S.Mujibur Rahman
For Respondents 1 to 3 : Mrs.S.Srimathy
Special Government Pleader
For Respondent No.4 : No appearance
[In all Writ Petitions]

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O R D E R

The present writ petitions are filed for a direction to direct the respondents 1 to 3 to pass orders on the representation of the petitioners dated 13.11.2014 and to pay the salary for the period from 01.10.1999 to 01.06.2003 to the petitioners and to pay the other benefits namely selection grade etc.

2.The learned Counsel, appearing on behalf of the writ petitioners, states that they were initially appointed as Secondary Grade Teachers with the fourth respondent – school, which is an Aided School.

3.The grievance of the writ petitioners is 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 representations submitted by the writ petitioner in this regard were rejected by the Director of School Education in proceedings dated 18.06.2014 stating that the order passed by this Court in W.P.Nos.28647 of 2015 dated 11.09.2015 is not applicable to the writ petitioner. However, the matter went by way of an appeal before the Hon'ble Division Bench, in respect of other similar writ petitions, and 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.*

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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 Divison 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 petitioners 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 are to be reconsidered with reference to the fact and circumstances. Accordingly, the second respondent is directed to reconsider the case of the writ petitioner 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 fresh representations and all other relevant documents along with the order passed in this writ petition.

5.Accordingly, the writ petitions stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

SD
ASSISTANT REGISTRAR (CO)

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SUB ASSISTANT REGISTRAR (CS)

To

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

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

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

1CC TO THE SPL GOVT PLEADER SR 78554
4CC'S TO MR. AS.MUJIBUR RAHMAN, ADVOCATE SR 78567 & 78368

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