



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2019

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.(MD) No.232 of 2014 and

M.P.No.1 of 2014

Vimalanesam

Petitioner

Vs

1. The Secretary to Government
School Education Department
State of Tamil Nadu
Secretariat
St.Fort George
Chennai - 9
2. The Director of Elementary Education
College Road
Chennai - 6
3. The District Educational Officer
Tirunelveli
4. The Manager
TDTA Elementary Schools
Diocesan Office - CSI Tirunelveli Diocese
Palayamkottai
Tirunelveli - 2

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, or any other order or orders in the nature of Writ calling for the records relating to the order passed by the first respondent in his Letter No.12292/N2/2011-2, dated 06.02.2012 and quash the same and consequently direct the respondents to disburse the benefits of G.O.Ms.No.202, School Education (G2) Department, dated 24.09.2008 to the petitioner, within stipulated time as may be fixed by this Court.

For Petitioner : Mr.T.A.Ebenezer
For Respondents : For R1 to R3 - Mr.S.Dhayalan
Government Advocate
For R4 - Mr.S.Chellapandian

O R D E R

The Writ Petitioner seeks Writ of Certiorarified Mandamus to call for the records relating to the order passed by the first respondent in his Letter No.12292/N2/2011-2, dated 06.02.2012 and quash the same and consequently direct the respondents to disburse the benefits of G.O.Ms.No.202, School Education (G2) Department, dated 24.09.2008 to the petitioner within the stipulated time.



2. The brief facts that lead to the filing of the Writ petition are as follows:-

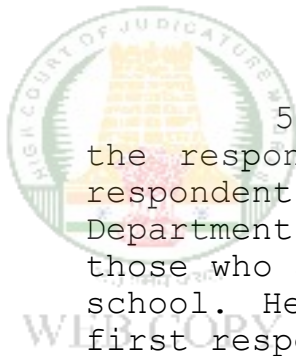
2.1. The petitioner was appointed as Secondary Grade Teacher in the 4th respondent aided Christian Minority School on 24.08.1977. Subsequently, she was promoted as Head Mistress on 16.10.1980 in TDTA Primary School, Perumbathu. Thereafter, as per her request, she was reverted and transferred as Secondary Grade Teacher in TDTA Primary School, Thoppur on 01.06.1987. Since prior to 01.06.1988 there was no difference in the pay scale between the Secondary Grade Teacher and Elementary School Head Master, teachers were accepting the reversion from the post of Elementary School Headmaster to Secondary Grade Teacher.

2.2. As per 5th Pay Commission G.O.Ms.No.666, Finance Department, dated 27.06.1989, separate scale of pay was fixed for the Elementary School Headmaster with effect from 01.06.1988. The people like the petitioner submitted their representations, based on which, the Government have issued G.O.Ms.No.202, School Education (G2) Department, dated 24.09.2008, wherein, it was clearly mentioned that those persons, who worked as Elementary School Headmaster prior to 01.06.1988 and transferred to the post of Secondary Grade Teacher shall be deemed to have worked as Elementary School Headmaster in the transferred school and the benefits of the 5th Pay Commission shall be applicable to all such persons, whether they filed applications before the Tribunal or not and the service prior to 01.06.1988 shall be taken into consideration.

2.3. Further, it is submitted that for the undated representation of the petitioner, the first respondent herein had passed a rejection order dated 06.02.2012 only on the ground that G.O.Ms.No.202 School Education (G2) Department, dated 24.09.2008 is applicable only to the persons who are working in Government Schools and not in Private aided School. Hence, the petitioner has come up with this present Writ petition.

3. I have heard Mr.T.A.Ebenezer, learned counsel appearing for the petitioner and Mr.S.Dhayalan, learned Government Advocate for the respondents R1 to R3 and Mr. S.Chellapandian, learned counsel for the fourth respondent.

4. The learned counsel for the petitioner would submit that no distinction has been made between Government School and Private aided schools in the Government Order G.O.Ms.No.202 School Education (G2) Department, dated 24.09.2008. Further, it is stated that there is no disparity between the teachers working in Government schools and aided schools. All the service conditions and salary for the teachers working in aided school are treated on par with teachers working in aided schools. Therefore, the learned counsel prayed to set aside the order of rejection passed by the first respondent.



5. On the other hand, the learned Government Advocate for the respondents R1 to R3 and the learned counsel for the fourth respondent submitted that G.O.Ms.No.202 School Education (G2) Department, dated 24.09.2008 is applicable only to the persons, those who are working in Government Schools and not in Private aided school. Hence, there is no infirmity in the order passed by the first respondent.

6. The only issue to be decided in this matter is whether the petitioner is eligible for availing the benefit of G.O.Ms.No.202 School Education (G2) Department, dated 24.09.2008 or not. The same issue has been settled by this Court in its order dated 22.08.2014 in WP(MD) No.11190 of 2009. The relevant portion of the order is extracted below:-

5. So far as the benefits under the Government Order in G.O. (Ms) No.202 is concerned, the learned counsel would submit that such issue is no more res integra as the same has been decided by this Court in T.Joseph and others Vs.The State of Tamil Nadu rep by its Secretary to Government, School Education Department, Fort St.George, Chennai - 9 in Writ Petition Nos.23975 to 23980 of 2012 dated 04.09.2012.

.....9. A plain reading of the Government Order in G.O (MS) No.202 would go to show that there is no indication that it is not applicable to private aided schools. As has been held by this Court in T.Joseph's case, it is immaterial as to whether a teacher had worked in private aided school or in a Government School. If at all even assuming that a teacher is working in a private school, salary is only paid by the Government. There is no disparity between the teachers between the private schools and Government Schools. In all respects in respect to salary, service conditions etc., the teachers working in private schools are treated on par with the teachers working in Government Schools. Therefore, when the Government Order in G.O.Ms.No.202 is made applicable to the teachers working in Government Schools, quite naturally, logically and ethically, it should be applicable to the teachers working in private schools as well. In such view of the matter, I hold that the petitioner is entitled to the benefits of Government Order in G.O.Ms.No.202, School Education (G2) Department, dated 24.09.2008.

7. The above order is squarely applicable to the present case also and therefore, the impugned order dated 06.02.2012 is set aside and the respondents are directed to extend the benefit of G.O.Ms.No.202, School Education Department, dated 24.09.2008 to the petitioner and such exercise shall be completed within a period of



four weeks from the date of receipt of a copy of this order.

8. With the above direction, the Writ Petition is allowed.
No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vrn

To

1. The Secretary to Government
School Education Department
State of Tamil Nadu
Secretariat
St.Fort George
Chennai - 9

2. The Director of Elementary Education
College Road
Chennai - 6

3. The District Educational Officer
Tirunelveli

+1 CC to M/s.M/S.T.A.EBENEZER, Advocate (SR-105188[F]
+1 CC to M/s.S.CHELLAPANDIAN, Advocate (SR-105376[F]
+1 CC to M/s.SPL.GP (SR-105581[F] dated 18/12/2019)

W.P.(MD) No.232 of 2014 and
M.P.No.1 of 2014
16.12.2019

SMA/20/01/2020/4P/7C