



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P[MD]No.242 of 2014
and
M.P. [MD]Nos.1 & 2 of 2014

I.Francis Xavier

... Petitioner

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 School Education,
College Road,
Chennai - 600 006.
- 3.The District Educational Officer,
Usilampatti Educational District,
Usilampatti, Madurai District - 625 532.
- 4.The Correspondent,
St.Claret's Higher Secondary School,
Karumathur,
Madurai District - 625 514.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the third respondent dated 08.08.2013 in his OO.Mu.No.3053/A4/2013 and quash the same and to direct the respondents 1 to 3 to pay the salary for the period from 03.06.1997 to 01.06.2003 to the petitioner and to pay the other benefits namely selection grade etc.,

For Petitioner : Mr.K.Vadivelu

For Respondents 1 to 3 : Mrs.S.Srimathy
Special Government Pleader

For Respondent No.4 : No appearance



O R D E R

The order passed by the third respondent in proceedings A.THE.MU.No.5931/A2/2013 dated 16.09.2013 and quash the same and to direct the respondents 1 to 3 to pay the salary for the period from 20.10.1997 to 01.06.2003 to the petitioner and to pay the other benefits namely selection grade etc.

2.The learned counsel appearing on behalf of the writ petitioner states that he was initially appointed as Secondary Grade Teacher on 03.06.1997 with the fourth respondent-School, which is an Aided School.

3.The grievance of the writ petitioner is that the approval was granted by the authority competent on 31.05.2003. However, the arrears of salary due to the writ petitioner from the date of his appointment has not been paid. The representation submitted by the writ petitioner in this regard was rejected by the third respondent in proceedings dated 16.09.2013 stating that the order passed by this Court in W.P.No.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 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.



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 Division 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 petitioner 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 petitioner is to be reconsidered with reference to the facts 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 petitioner is permitted to submit a fresh representation and all other relevant documents along with the order passed in this writ petition.

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

Sd/-

Assistant Registrar (CO)

/ True Copy /

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 School Education,
College Road,
Chennai - 600 006.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The District Educational Officer,
Usilampatti Educational District,
Usilampatti, Madurai District - 625 532.

+1 CC to M/s.A.S.MUJIBUR RAHMAN, Advocate
(SR-80910[F] dated 09/08/2019)

+1 CC to M/s.SPL GP (SR-81195[F] dated 09/08/2019)

W.P[MD]No.242 of 2014
08.08.2019

MR

ES/16.10.2019/4P/6C