

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 21.08.2019****CORAM:****THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM****W.P. (MD) Nos.5287 and 5288 of 2015****and****M.P. (MD) Nos.1 and 1 of 2015**

D.Sekar Franklin ... Petitioner in W.P.(MD)No.5287 of 2015
A.Wilson James ... Petitioner in W.P.(MD)No.5288 of 2015

-Vs-

1. The State of Tamil Nadu,
Represented 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,
Thirunelveli Educational District,
Thirunelveli District.

4. The Correspondent,
The Christhuraaja Higher Secondary School,
No.9H, North High Ground Road,
Palayamkottai-627 002,
Thirunelveli District.

... Respondents
in both Writ Petitions

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the third respondent in his Na.Ka.No.4831/A1/2014 dated 28.11.2014 and quash the same and to direct the respondents 1 to 3 to pay the revised salary for the period from 02.06.2003 to till date after deducting the salary already paid to the petitioner and to pay the other benefits namely, selection grade etc.

For Petitioner : Mr.K.Vadivelu
(in both Writ Petitions)
For R1 to R3 : Mrs.S.Srimathy,
(in both Writ Petitions) Special Government Pleader.
For R4 : No Appearance
(in both Writ Petitions)

COMMON ORDER

The order passed by the third respondent in proceedings dated 28.11.2014, in respect of rejection of their claim in payment



of salary with effect from the date of their appointment, is under challenge in these Writ Petitions.

2.The learned counsel appearing on behalf of the writ petitioners states that they were initially appointed as Secondary Grade Teacher on 02.06.1997 and 22.01.1997 respectively with the fourth respondent-School, which is an Aided School and he was handling classes from VI to IX Standards.

3.The grievance of the writ petitioners are that the approval was granted by the authority competent on 18.08.1997 and 01.04.1997 respectively. However, the arrears of salary due to the writ petitioners from the date of their appointment has not been paid. The representation submitted by the writ petitioners in this regard was rejected by the third respondent in proceedings dated 28.11.2014, 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 petitioners. However, the matter went by way of an appeal before the Hon'ble Division Bench of this Court and this Court 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



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 petitioners is to be reconsidered with reference to the facts and circumstances. Accordingly, the third respondent is directed to reconsider the case of the writ petitioners 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 a fresh representation and all other relevant documents along with the order passed in these Writ Petitions.

5. Accordingly, these Writ Petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// 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.

3. The District Educational Officer,
Thirunelveli Educational District,
Thirunelveli District.

+2 CC to MR.A.S. MUJIBUR RAHMAN, Advocate (SR-82951[F] dated 22/08/2019)

+1 CC to SPL GP (SR-83001[F] dated 22/08/2019)

W.P. (MD) Nos.5287 and 5288 of 2015

21.08.2019