



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) Nos.21803, 21804 of 2019

and

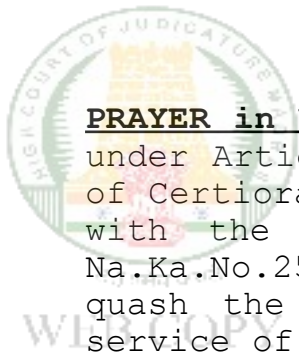
W.P. (MD)No.8154 of 2016

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K.Sulochana	...	Petitioner in W.P. (MD)No.21803 of 2019
A.Rajeshwari	...	Petitioner in W.P. (MD)No.21804 of 2019
S.Shanthi	...	Petitioner in W.P. (MD)No.8154 of 2016

-Vs-

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Education Department, Secretariat,
Chennai-9.
- 2.The Director of Elementary Education,
College Road, Chennai-06.
- 3.The Commissioner,
Government Data Centre,
Guindy, Chennai.
- 4.The District Educational Officer,
Dindigul District.
- 5.The Block Educational Officer,
Dindigul Nagar, Dindigul District. ... Respondents 1 to 5
in W.P. (MD)Nos.21803 and 21804 of 2019
- 6.The Secretary,
Gandhiji Middle School,
14th Ward, Dindigul Union. ... 6th Respondent
in W.P. (MD)No.21803 of 2019
- 6.The Secretary,
Gandhiji Middle School,
5th Ward, Dindigul Union. ... 6th Respondent
in W.P. (MD)No.21804 of 2019
- 1.The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.
- 2.The Assistant Elementary Educational Officer,
Kaladadu, Tirunelveli District.
- 3.The Manager,
S.V.Hindu Primary School,
Eruvadi-627 103, Tirunelveli District. ... Respondents
in W.P. (MD)No.8154 of 2016



PRAYER in W.P. (MD)Nos.21803 and 21804 of 2019: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order passed by the fourth respondent vide Na.Ka.No.2514/A4/2019, dated Nil .07.2019, signed on 24.07.2019, and quash the same and direct the respondents 1 to 4 to count the service of the petitioner as Secondary Grade Teacher from 30.01.2003 to 12.01.2004 and from 27.01.2003 to 12.01.2004 respectively in the 6th respondent School for pensionary and other service benefits, in the light of the G.O.Ms.No.413, dated 04.11.2010 and order passed in W.A.(MD)No.307 of 2019, dated 02.08.2019.

PRAYER in W.P. (MD)No.8154 of 2016: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the entire records relating to A.T.Mu.No.453/A/2015, dated 25.02.2016 of the first respondent and the consequential order of the second respondent herein in A.T.Mu.No.36/A1/2016, dated 15.03.2016 and quash the same and consequently, direct the respondents herein to fix the pension scheme based on the counting of service under old pension scheme and deduct P.F., as per old scheme.

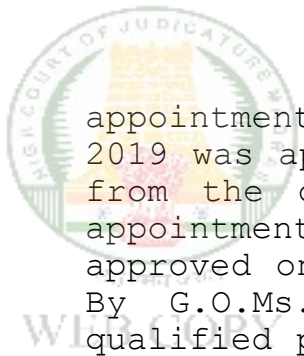
For Petitioner : Mr.S.N.Ravichandran
(in W.P.(MD)Nos.21803 and 21804 of 2019)
For Petitioner : Mr.T.Pon Ramkumar
(in W.P.(MD)No.8154 of 2016)
For Respondents : Mr.A.Thiagarajan,
(in all Writ Petitions) Government Advocate.

COMMON ORDER

W.P.(MD)Nos.21803 and 21804 of 2019 are filed, challenging the order of the fourth respondent dated Nil. 07.2019 signed on 24.07.2019 and further direction is sought for to direct the respondents 1 to 4 to count the service of the petitioner as Secondary Grade Teacher from 30.01.2003 to 12.01.2004 and from 27.01.2003 to 12.01.2004 respectively in the 6th respondent School for pensionary and other service benefits, in the light of the G.O.Ms.No.413, dated 04.11.2010 and order passed in W.A.(MD)No.307 of 2019, dated 02.08.2019.

2.W.P.(MD)No.8154 of 2016 is filed, challenging the order of the first respondent, dated 25.02.2016 as well as the order of the second respondent, dated 15.03.2016 and further direction is sought for to direct the respondents to fix the pension scheme based on the counting of service under old pension scheme and deduct P.F., as per old scheme.

3.According to the petitioners, they are having B.Ed., educational qualification and they were appointed as Secondary Grade Teacher on 30.01.2003, 27.01.2003 and 13.03.2003 respectively. The

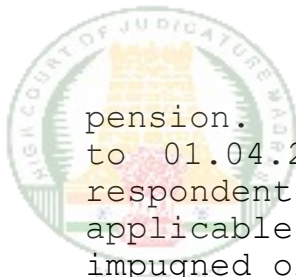


appointment of the petitioners in W.P.(MD)Nos.21803 and 21804 of 2019 was approved, by the proceedings dated 09.04.2003, with effect from the date of their appointment in time scale of pay. The appointment of the petitioner in W.P.(MD)No.8154 of 2016 was approved on 17.11.2004, on completion of Child Psychology Training. By G.O.Ms.No.559, dated 11.07.1995, the appointment of higher qualified persons in Secondary Grade vacancies was prohibited. The said Government Order was challenged by number of teachers by way of filing Writ Petitions. By the order dated 19.05.1998, the Writ Petitions were dismissed. The dismissal of the Writ Petitions was challenged in W.A.Nos.991 to 998 of 1998. The Division Bench of this Court, by its judgment dated 29.06.2001, has directed the respondents to approve the appointment of the teachers made between 11.07.1995 and 19.05.1998, on completion of one month Child Psychology Training. Based on the said judgment, the Government has issued G.O.Ms.No.155, dated 03.10.2002. As per the said Government Order, the teachers were sent for one month Child Psychology Training and on completion of said training, their services were approved with effect from 02.06.2003 in time scale of pay of Rs.4,500-120-7000. The petitioners were sent for Child Psychology Training on 12.12.2003 to 12.01.2004, 12.12.2003 to 12.01.2004 and 10.12.2003 to 09.01.2004 respectively. On completion of said training the petitioners' appointment was approved with effect from 19.01.2004, 19.01.2004 and 17.11.2004 respectively, on consolidated pay of Rs.3000/-, as per G.O.Ms.No.4, dated 19.01.2004. The petitioner in W.P.No.21803 of 2019 has challenged the same by filing W.P.(MD)No.19524 of 2004. Even though this Court has directed the fourth respondent to pay salary from 30.01.2003, the fourth respondent has not paid the same. The petitioner in W.P.(MD) No.21804 of 2019 has sent a representation to the fourth respondent requesting to pay salary from 27.01.2003. However, the fourth respondent has not complied with the same. The petitioners gave representations for bringing them under Old Pension Scheme, as they were appointed prior to 01.04.2003. However, the request of the petitioners in W.P.(MD)Nos.21803 and 21804 of 2019 was rejected by the impugned order and the representation of the petitioner in W.P. (MD)No.8154 of 2016 was returned on the ground that her appointment was approved after 01.04.2003. Therefore, they are not entitled to Old Pension Scheme.

4.Heard the learned counsel appearing for the petitioners, the learned Government Advocate appearing for the respondents and perused the materials available on record carefully.

5.The issue whether past service rendered by the teachers before their completion of Child Psychology Training shall be counted, was considered by the Division Bench of this Court in the case reported in **2004 (2) L.W. 591 (State of Tamil Nadu and others Vs. Pallivasal Primary School)**.

6.In the said judgment, the Division Bench of this Court has held that past service rendered by the teachers shall be counted for



pension. In the present case, the petitioners were appointed prior to 01.04.2003 and their appointment was approved by the fourth respondent. The ratio in the judgment referred to above is squarely applicable to the facts of the present case. Therefore, the impugned orders are set aside.

7. For the above reasons, these Writ Petitions are allowed. The official respondents are directed to count the service of the petitioners rendered before their approval for pensionary benefits. No costs.

Sd/-

Assistant Registrar (W)

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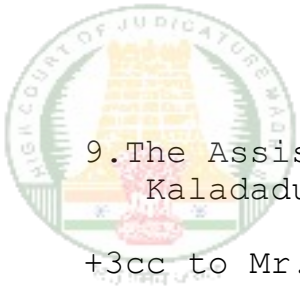
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Sub Assistant Registrar(CS)

Myr

To

1. The Secretary to Government,
State of Tamil Nadu,
Education Department, Secretariat,
Chennai-9.
2. The Director of Elementary Education,
College Road, Chennai-09.
3. The Commissioner,
Government Data Centre,
Guindy, Chennai.
4. The District Educational Officer,
Dindigul District.
5. The Block Educational Officer,
Dindigul Nagar, Dindigul District.
6. The Secretary,
Gandhiji Middle School,
14th Ward, Dindigul Union.
7. The Secretary,
Gandhiji Middle School,
5th Ward, Dindigul Union.
8. The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.



9.The Assistant Elementary Educational Officer,
Kaladadu, Tirunelveli District.

+3cc to Mr.T.PONRAMKUMAR, ADVOCATE, SR NO.100952

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