



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1190 of 2019
and
C.M.P. (MD)No.10319 of 2019

Hairathul Jamalia Higher Secondary School,
Represented by its Correspondent Mr.Sathik Ali,
Paramakudi,
Ramanathapuram District. ... Appellants/Petitioner

Vs.

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

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

3.The Chief Educational Officer,
Chief Education Office,
Ramnad, Ramnad District.

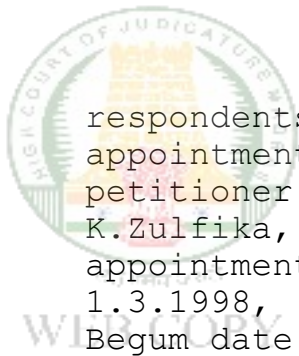
4.The District Educational Officer,
District Education Office,
Paramakudi,
Ramnad District.

... Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to set aside the order of the learned Single Judge dated 17.09.2019 made in W.P.(MD)No.19891 of 2019 and to direct the respondents to pay the salary for the period from the date of their original appointment respectively.

Prayer in WP(MD). 19891/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court direct the respondents to pass orders on the representatin dt.7.6.2019 and to direct the



respondents to pay the salary for the period from the date of appointment 01.6.2003 to the following teachers appointed by the petitioner a) K.A.Hidayuthullah, date of appointment 25.2.1998, b) K.Zulfika, date of appointment 25.2.1998, c) A.Akilanash, date of appointment 25.2.1998, d) K.R.Sivakumar, date of appointment 1.3.1998, e) G.Syed, date of appointment 9.3.1998, f) A.Nazeema Begum date of appointment 26.2.1998.

For Appellant : Mr.A.S.Mujibur Rahman
For Respondents : Mrs.S.Srimathy
Special Government Pleader

JUDGMENT

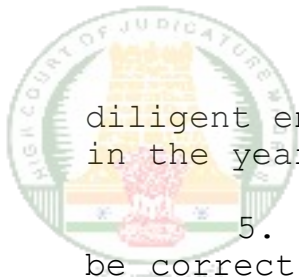
[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.A.S.Mujibur Rahman, learned Senior Counsel for the appellant and Mrs.S.Srimathy, learned Special Government Pleader for the respondents. By consent on either side, this writ appeal is taken up for final disposal.

2. The appellant is a recognized Minority Aided Institution, Higher Secondary School. They filed the writ petition on behalf of the Teachers namely, K.A.Hidayuthullah, K.Zulfika, A.Akilanash, K.R.Sivakumar, G.Syed and A.Nazema Begum and prayed for a direction upon the official respondents to consider the representation, dated 07.06.2019 and to direct the respondents to pay the salary for the period from the date of appointment and also other consequential benefits.

3. The appellant's case is that 30 posts of BT Assistants and 4 Secondary Grade Teachers posts were sanctioned by the Government apart from the three Physical Education Teachers and 9 PG Assistants, who are stated to be working in the School at the relevant point of time. The six Teachers, whose names have been mentioned in the preceding paragraph, are stated to have undergone child psychology training pursuant to G.O.Ms.No.155 from 02.05.2003 to 30.05.2003. The appointment of those six Teachers is stated to have been approved with effect from 02.06.2003 only. It is a claim that the Teachers are entitled to salary from the date of their appointment. In this regard, the appellant / Management placed reliance on the decision of this Court in a batch of cases in W.P. (MD)No.19821 of 2003 dated 22.01.2013.

4. With these facts representation was submitted to the Authorities and the representation has not been considered and hence, the appellant / Institution moved the writ Court. The learned writ Court on taking into consideration the facts, rejected the prayer sought for on the ground that the appellant is not



diligent enough to claim salary for the Teachers, who were appointed in the year 1998 and the claim is bared by delay and laches.

5. Firstly, if the plea raised by the Management is found to be correct, then the entitlement for payment of salary will be paid to the Teachers and not to the Management. Further, if the Teachers are still continuing to function or if they have retired and drawing pension, the cause of action would still survive and cannot be stated to be bared by delay and laches, because it is a monitory claim made by the Teachers. However, it is not known as to why the Teachers have not approached the Court and the Management had approached the Court. In any event, the prayer sought in the writ petition was to consider the representation. Though the appellant sought for a positive direction in the writ petition that cannot be done at this juncture. In the light of the above, we are of the view that the representation made by the Management should be directed to be considered on merits and in accordance with law.

6. In the result, this writ appeal is allowed and the order and the direction issued in the writ petition is set aside and the third respondent is directed to consider the representation submitted by the Management dated 07.06.2019 on merits and in accordance with law. If any details are required by the third respondent, the same shall be called for from the Management and thereafter decision shall be taken. The above direction shall be complied with within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

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

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



3.The Chief Educational Officer,
Chief Education Office,
Ramnad, Ramnad District.

4.The District Educational Officer,
District Education Office,
Paramakudi,
Ramnad District.

+1 CC to M/s.M.MOHAMED IBRAHIM, Advocate (SR-97172[F] dated 08/11/2019)

+1 CC to M/s.GP (SR-97233[F] dated 11/11/2019)

ORDER MADE IN
W.A. (MD)No.1190 of 2019
08.11.2019

JMN(22.11.2019) 4P : 7C