



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

Rev.Appl.No.47 of 2020
and
Cont.P.No.1923 of 2019

Rev.Appl.No.47 of 2020

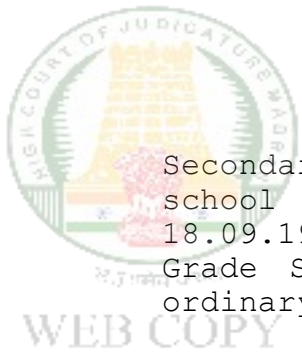
1. The Government of Tamil Nadu,
Rep by its Secretary to Government,
School Education Department, Secretariat,
Chennai-600 009.
2. The Director of Elementary Education,
Nungambakkam, Chennai-600 006.
3. The District Elementary Educational Officer,
Nagapattinam, Nagapattinam District.
4. The Assistant Elementary Educational Officer,
Keezhaiyur, Nagapattinam District. ..Petitioners /
Respondents 1 to 4

vs.

1. A.Philomena ...1st Respondent / Petitioner
2. The Manager / Secretary,
St.Sebastian Aided Primary School,
Kameswaram East, Kameswaram Post,
Nagapattinam District. ..2nd Respondent / 5th Respondent

Prayer: Review Application filed under Order 47 Rule 1 read with Section 144 CPC to review the order dated 03.08.2017 passed in W.P.No.24787 of 2012.

Prayer in W.P.No.24787 of 2012:-Filed under Article 226 of the Constitution of India for issuance of writ of certiorarified Mandamus, calling for the records of the 4th respondent relating to the order in Aa.Thi.Mu. No.592 / A1 / 2012 dated 18.04.2012 to quash the same and issue consequential directions to respondents to approve the appointment of the petitioner as



Secondary Grade Teacher w.e.f. 18.09.1996 in the 5th respondent school and disburse pay and allowance for the period from 18.09.1996 to 01.06.2003 with interest and to grant Selection Grade Scale of pay on completion of 10 years of service in ordinary grade and disburse monetary benefits thereof.

For Petitioner : M.V.Nanmaran,
Additional Government Pleader

For Respondents : Mr.A.R.Suresh
for M/s.V.Tripathi

Cont.P.No.1923 of 2019

A.Philomena ..Petitioner / Petitioner

vs.

1. Mr.Pradeep Yadav, I.A.S.,
Secretary, Government of Tamil Nadu,
School Education Department,
Fort St.George,
Chennai-600 009.
2. Mr.Sethuramavarma, L
The Director of Elementary Education,
Nungambakkam,
Chennai-600 006.
3. Mr.C.Karthikeyan,
The District Elementary Educational Officer,
Nagapattinam District.
4. Mr.V.Subramanian,
The Assistant Elementary Educational Officer,
Kezhaiyur, Nagapattinam District,
Now the Block Educational Officer,
Keezhaiyur, Nagapattinam District.
5. Mr.ARP. Arokiadoss,
The Manager / Secretary,
St.Sebastian Aided Primary School,
Kameswaram Post, Nagapattinam District. ..Respondents

Prayer: Contempt Petition filed under Section 11 of the Contempt of Court Act, to punish the respondents for wilful disobedience of the order of this Court dated 03.08.2017 made in W.P.No.24787 of 2012.



For Petitioner : Mr.A.R.Suresh
for M/s.V.Thirupathi

For Respondents : Mr.V.Nanmaran,
Additional Government Pleader

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COMMON ORDER

The official respondents in W.P.No.24787 of 2012 are the review applicants herein. The said writ petition was filed by the first respondent / writ petitioner seeking to quash the impugned order of the fourth respondent therein dated 18.04.2012 and for a consequential direction to the respondents/review applicants herein to approve the appointment of the writ petitioner as Secondary Grade Teacher w.e.f. 18.09.1996 in the second respondent school and disburse pay and allowance for the period from 18.09.1996 to 01.06.2003 with interest and to grant Section Grade Scale of Pay on completion of 10 years of service in ordinary grade and disburse monetary benefits thereof. The writ petition came to be allowed by this Court, vide order dated 03.08.2017, by following the decision of a learned Single Judge of this Court in W.P(MD.No.9072 of 2005 dated 19.12.2007, which was also confirmed by a Division Bench of Madurai Bench of Madras High Court in W.A.(MD)No.11055 of 2009 dated 01.10.2009 and directed the respondents to regularize the services of the petitioner with effect from the date of he appointment i.e., 18.09.1996 and also she is entitled for all consequential benefits.

2. The present review application has been filed by the official respondents in W.P.No.24787 of 2012 by stating that in connected writ appeals in W.A.(MD)Nos.74 of 2015 and 957 of 2016, a Division Bench of this Court, vide judgment dated 21.03.2018, upheld the Government Order in G.O.Ms.No.155, School Education (D2) Department dated 03.10.2002 and set aside the order passed by the learned Single Judge and the relevant portion of the said 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 affect 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.

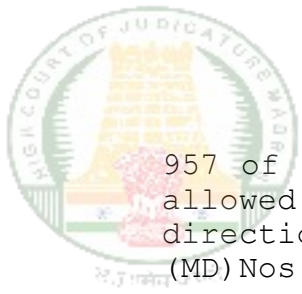
12. The learned counsel for the respondents submitted that though there were about 3000 Teachers who were appointed in such improper manner as of now 300 Teachers would be entitled to monitory benefits and as remaining persons were already paid and they were protected by the Division Bench order from 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 petitioners 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."

3. Mr.V.Nanmaran, learned Additional Government Pleader for the review applicants would submit that in view of the aforesaid order passed by a Division Bench of this Court in W.A(MD)Nos.74 of 2015 and 957 of 2016 dated 21.03.2018, the present review application may be allowed.

4. Mr.A.R.Suresh, learned counsel for the respondent / writ petitioner would submit that the aforesaid Division Bench order came to be passed on 21.03.2018, which is subsequent to the order passed by this Court.

5. When the same issue has been subsequently decided by a Division Bench of this Court as cited supra wherein the Division Bench has elaborately discussed the Government Order as well as the earlier orders of this Court and the respondents have not complied with the order passed by this Court, following the Division Bench order of this Court in W.A(MD)Nos.74 of 2015 and



957 of 2016 dated 21.03.2018,, the present review application is allowed and the respondents are directed to follow the directions issued by the Division Bench of this Court in W.A. (MD)Nos.74 of 2015 and 957 of 2016 dated 21.03.2018.

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6. In view of allowing of Rev.Appl.No.47 of 2020, the connected contempt petition in Cont.P.No.1923 of 2019 shall stands closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Jvm

To

1. Mr.Pradeep Yadav, I.A.S.,
Secretary, Government of Tamil Nadu,
School Education Department,
Fort St.George,
Chennai-600 009.
2. Mr.Sethuramavarma L
The Director of Elementary Education,
Nungambakkam,
Chennai-600 006.
3. Mr.C.Karthikeyan,
The District Elementary Educational Officer,
Nagapattinam District.
4. Mr.V.Subramanian,
The Assistant Elementary Educational Officer,
Kezhaiyur, Nagapattinam District,
Now the Block Educational Officer,
Keezhaiyur, Nagapattinam District.
5. Mr.ARP. Arokiadoss,
The Manager / Secretary,
St.Sebastian Aided Primary School,
Kameswaram Post, Nagapattinam District.
6. The Secretary to Government,
The Government of Tamil Nadu,
School Education Department, Secretariat,
Chennai-600 009.



7. The Director of Elementary Education,
Nungambakkam, Chennai-600 006.

8. The District Elementary Educational Officer,
Nagapattinam, Nagapattinam District.

9. The Assistant Elementary Educational Officer,
Keezhaiyur, Nagapattinam District.

+1cc to M/s.V.Tripathi, Advocate, S.R.No.904

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and
Cont.P.No.1923 of 2019

PVS[co]
NSK 31/01/2022