



WEB COPY

W.A(MD) No.747 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED:15.09.2020  
CORAM

**THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN**  
**and**  
**THE HON'BLE MR.JUSTICE P.RAJAMANICKAM**

W.A(MD)No.747 of 2020  
and  
C.M.P(MD)No.4318 of 2020  
against  
W.P(MD)No.16536 of 2015

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

2.The Director of Elementary Education,  
College Road, Chennai.

3.The District Elementary Educational Officer,  
Sivagangai District.

4.The Assistant Elementary Educational Officer,  
Kannankudi, Sivagangai District.

... Appellants / Respondents 1 to 4

-Vs-

1.G.Mariammal

... 1<sup>st</sup> Respondent/ Writ Petitioner

2.The Secretary,  
Ilango Middle School,  
Vengalore - 630 303,  
Sivagangai District.

... 2<sup>nd</sup> Respondent / 5<sup>th</sup> Respondent

Prayer: Writ Appeal - filed under Clause 15 of the Letters Patent Act, to set aside the order dated 24.10.2019 passed in W.P(MD) No.16536 of 2015.

Prayer in WP(MD). 16536/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, calling for the entire records connected with the impugned order passed by the 3rd respondent in Na.Ka. No.3808/A3/2014 dated 25.03.2015 and Quash the same in so far as the portion declining the service regularization w.e.f 11.02.1998 is concerned and directing the 3rd respondent to regularize the service of the petitioner at the 5th respondent school as Secondary Grade Teacher from her date of initial appointment with effect from

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11.02.1998 with all monetary benefits and pensionary benefits as per G.O.No.413 issued by the Finance (PGC) Department, dated 04.11.2010 and in the light of judgment reported in 2004 - 2 - L.W. 591.

For Appellants

: Mrs.S.Srimathy,  
Special Government Pleader

For R-1

: Mr.A.Rahul

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### JUDGMENT

[Judgment of the Court was delivered by **M. SATHYANARAYANAN, J.,**]

The official respondents in W.P(MD)No.16536 of 2015 are the appellants.

2. The first respondent / writ petitioner has filed the writ petition by making a challenge to the proceedings of the third appellant, dated 25.03.2015 and quash the same insofar as the portion declining the service regularization w.e.f 11.02.1998 with a consequential direction, directing the third appellant to regularize her service at the second respondent school as Secondary Grade Teacher from the date of initial appointment w.e.f 11.02.1998 with all attendant and pensionary benefits in terms of G.O.No.413, Finance (PGC) Department, dated 04.11.2010 and also in the light of the judgment reported in 2004 - 2 - L.W. 591 (*the State of Tamil Nadu, rep. by its Secretary, Education Department, Chennai - 9 and two others vs. Pallivasal Primary School rep. by its Correspondent, Mudukulathur*). The said writ petition after contest, came to be allowed. By making a challenge to the same, the present writ appeal is filed.

3. Mrs.S.Srimathy, learned Special Government Pleader appearing for the appellants would submit that the first respondent / writ petitioner did not possess the requisite qualification to be appointed as a Secondary Grade Teacher and as such, her earlier appointment as Secondary Grade Teacher was improper and hence, she is not entitled to the benevolence of the judgment reported in 2004 - 2 - L.W. 591 (*cited supra*) r/w G.O.Ms.No.155, School Education(D2) Department, dated 03.10.2002 and the learned Judge had not taken note of the said important fact and committed an error in partly allowing the writ petition.

4. Per contra, the learned counsel appearing for the first respondent / writ petitioner has drawn the attention of this Court to Paragraph No.9 of G.O.No.413, Finance (PGC) Department, dated 04.11.2010 and would submit that in terms of the said paragraph, the said Government Order shall not apply to similarly placed Teachers appointed after 19.05.1998 and admittedly, the first respondent / writ petitioner came to be appointed as a Secondary Grade Teacher on 11.02.1998 and therefore, the said Government Order is having full



application to the case on hand and the learned Judge has appreciated the factual aspects as well as the legal position and allowed the writ petition in part and hence, prays for dismissal of this writ appeal.

5. This Court has carefully considered the rival submissions made and also perused the materials placed before it.

6. A perusal of the impugned order, which is the subject matter of challenge in the writ petition would disclose that the first respondent / writ petitioner had possessed necessary qualification to be appointed as a Secondary Grade Teacher. However, she did not possess the requisite training certificate for the appointment as a Secondary Grade Teacher and despite that, she was appointed on 11.02.1998 and subsequently, undergone the Child Psychology Training also and thereafter, her appointment was regularized on 02.06.2003. During the course of arguments in the writ petition, the learned Special Government Pleader has also placed reliance upon the judgment rendered by a Division Bench of this Court dated 21.03.2018 in W.A(MD)Nos.74 of 2015 and 957 of 2016 and contended that the first respondent / writ petitioner is not entitled for regularization of her service in the concerned educational institution as Secondary Grade Teacher from the date of her initial appointment. The learned Judge has also accepted the same and however, clarified that the service can be regularized from the date when she completed her Child Psychology Training and the past service of the first respondent / writ petitioner prior to the said Training, shall be counted for the purpose of pension and accordingly, partly allowed the writ petition vide the impugned order dated 24.10.2019. The learned Special Government Pleader appearing for the appellants reiterated her submissions made before the learned single Judge in this writ appeal also.

7. The Finance (PGC) Department passed G.O.No.413 dated 04.11.2010, in compliance of the order passed in W.P.Nos.26933 & 26934 of 2007 with regard to the extension of Old Pension Scheme to the Secondary Grade Teacher appointed during 1996, 1997 and 1998 in the aided schools. It is not in dispute that the first respondent / writ petitioner was appointed as a Secondary Grade Teacher on 11.02.1998 in an aided Institution. In Paragraph No.9 of the said G.O., it is stated that '*this Order shall not apply to similarly placed Teachers appointed after 19.05.1998*'.

8. In the considered opinion of this Court, since the first respondent / writ petitioner was appointed as a Secondary Grade Teacher in an aided Institution on 11.02.1998, the said G.O has full application to the case on hand and the learned Judge on correct appreciation of factual aspect as well as the judgment relied on by the learned Special Government Pleader, has rightly reached the conclusion in granting partial relief to the first respondent / writ



petitioner.

9. This Court on an independent application of mind to the entire materials placed and also considering the rival submissions, is of the considered view that there is no error apparent or infirmity in the reasons assigned by the learned single Judge while partly allowing the writ petition and finds no merits in this writ appeal.

10. In the result, this writ appeal is dismissed confirming the order dated 24.10.2019 passed in W.P(MD)No.16536 of 2015. No Costs. Consequently, connected miscellaneous petition is closed.

11. The third appellant is directed to comply with the order passed in the writ petition as confirmed in this writ appeal within a period of ten weeks from the date of receipt of a copy of this judgment and communicate the decision taken to the first respondent / writ petitioner.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Pm

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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

2.The Director of Elementary Education,College Road, Chennai.

3.The District Elementary Educational Officer,Sivagangai District.

4.The Assistant Elementary Educational Officer,  
Kannankudi, Sivagangai District.

+1 CC to M/s.SPL GP ( SR-17149[F] dated 16/09/2020 )

**Judgment in**  
**W.A(MD) No.747 of 2020**  
**15.09.2020**

**AP(22/09/2020) 4P 6C**

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