



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2020

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)Nos.12304, 12306 and 12308 of 2020

and

W.M.P. (MD)Nos.10548 and 10549 of 2020

P.Meenambal ...Petitioner in W.P.(MD)No.12304 of 2020
M.Amalraj ...Petitioner in W.P.(MD)No.12306 of 2020
Kannan ...Petitioner in W.P.(MD)No.12308 of 2020

-Vs-

- 1.The Secretary to the Government,
Department of School Education,
St. George Fort, Chennai.
- 2.The Director of School Education,
DPI Compound, College Road,
Chennai.
- 3.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
- 4.The District Educational Officer,
Sankarankovil, Tirunelveli District.
- 5.The Secretary,
Bala Vinayagar High School,
Sivagiri, Tirunelveli District. ...Respondents in all W.Ps.

COMMON PRAYER: Writ Petitions are filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the fourth respondent in A.Thi.Mu.No.4730/A3/2019, dated 26.11.2019 and quash the same and consequently, direct the respondents to regularize the service of the petitioners from their initial date of appointment (i.e., 31.01.2005, 02.06.2005 and 03.06.2005) till 01.06.2006 with all consequential monetary and service benefits.

For Petitioners : Mr.S.Chellapandian
For R1 to R4 : Mrs.S.Srimathy,
Special Government Pleader.
(in all petitions)



COMMON ORDER

As the issue raised in all these Writ Petitions is one and the same, with the consent of the learned counsel on both sides, these Writ Petitions are heard together and disposed of at the admission stage itself by way of this common order. Since no adverse order is going to be passed against the 5th respondent, notice to the 5th respondent is dispensed with.

2. These petitioners were appointed as Junior B.T. Assistants at the 5th respondent School sometime in the year 2005 and 2006.

3. In respect of the petitioner in W.P.(MD)No.12304 of 2020, she was appointed and started working from 31.01.2005. In respect of the petitioner in W.P.(MD)No.12306 of 2020, he joined in service on 02.06.2005 and the petitioner in W.P.(MD)No.12308 of 2020, he joined in service on 03.06.2005.

4. From the date of joining of service respectively as stated above, all these petitioners worked for sometime on consolidated pay. Thereafter, as per G.O.Ms.No.99, School Education Department, 27.06.2006, they have been brought under regular time scale of pay with effect from 01.06.2006 and they have been continuously working. In this context, the grievance is that the period they worked on consolidated pay upto 31.05.2006, has to be reckoned as a regular service and the same may be taken into account for the purpose of total service to be reckoned for pay benefits as well as pensionary benefits after retirement. Therefore, in order to calculate the said service from the date of joining till 31.05.2006, during which they worked as Junior B.T. Assistants on consolidated pay, separate proposals have been sent by the 5th respondent school to the fourth respondent. However, the said proposals, now, have been returned or rejected by the impugned order passed by the fourth respondent. Challenging the same, these Writ Petitions have been filed with aforesaid prayer.

5. Heard Mr.S.Chellapandian, learned counsel appearing for the petitioners, who would submit that the reason stated in the impugned order for rejecting the plea of the petitioners sent by the school is that the school has to send relevant Government Order, if any, enabling the official respondents to consider the request of the petitioners to take into account the service rendered by them prior to 01.06.2006 by way of consolidated pay and by citing the said reasons, the impugned order of rejection has been made by the fourth respondent, which cannot be sustainable, therefore, he seeks indulgence of this Court.

6. In this context, the learned counsel appearing for the petitioners has also relied upon the judgment of this Court dated

<https://hcservices.ecourts.gov.in/hcservices/>



30.07.2019 made in W.P.(MD)No.4991 of 2005, which has also been referred to in the proposal sent by the School.

7.However, Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents would submit that admittedly, since the petitioners' service had been brought under regular time scale of pay only from 01.06.2006 by virtue of G.O.Ms.No.99, School Education Department, dated 27.06.2006 and in that Government Order there is no provision to regularize the earlier service rendered by the petitioners or similarly placed persons prior to 01.06.2006 also as a regular service for the purpose of pay fixation and pensionary benefits, the said reasons stated by the fourth respondent that if there is any Government Order is available, the same can be quoted and the proposal can be re-submitted by the School, in passing the impugned order cannot be found fault with. Hence, it does not require any interference, she contented.

8.I have considered the rival submissions made by the learned counsel on either side and perused the materials placed on record.

9.The impugned order states as follows:-

“சிவகிரி, பாலவிநாயகர் உ.நி. பள்ளியில் பணிபுரியும் பட்டதாரி ஆசிரியர்களான ப.மீனாம்பாள், மி.அமல்ராஜ். க.கண்ணன் ஆகியோரின் தொகுப்பூதிய காலத்தினை காலமுறை ஊதியம் வழங்கிட ஏதவாக அரசாணை ஏதும் பெறப்பட் டிருப்பின் அதனை இணைத்து மீள அனுப்பி வைக்குமாறு பள்ளிச் செயலாளர் கேட்டுக் கொள்ளப்படுகிறார்.”

10.Therefore, the reason stated in the impugned order by the fourth respondent, is that enabling the official respondents to regularize the service of each of the petitioners they rendered on consolidated pay prior to 01.06.2006, if there was any Government Order available, the same can be quoted by the School. Accordingly, the proposal can once again be resubmitted.

11.In this context, this Court wants to emphasis that, in earlier occasions, similar reason given by the official respondents having been considered by this Court, was set aside on the ground that, the official respondents, who are the authorities in Education Department, has to exercise certain powers conferred on them. Therefore, if a plea is raised by a teacher or school concerned, the same has to be decided by the official authorities under the relevant law.

12.In this context, if there is any provision of act or rules made therein or the Government Order or Government instructions available, they have only to be looked into by the official respondents and accordingly, they can decide the issue then and there raised by the school concerned or a teacher. Requiring a teacher or school concerned to submit a relevant Government Order or



rule etc., is not a healthy trend. Therefore, that kind of reasons, if it is quoted again and again by the official respondents for considering the plea made by the school concerned or teacher especially, the said view cannot be approved by the Court. Therefore, in several earlier occasions, this Court issued directions to the official respondents not to give reason that the school or teacher, who raised a plea on service dispute, has to send a relevant Government Order.

13.If there is any relevant Government Order, the official respondents have to consider and if there is no Government Order available, on the basis of the available law, the issue raised by a teacher or school concerned can be decided on merits. Therefore, in this case also, the very same reason once again stated by the fourth respondent, returning or rejecting the proposal sent by the 5th respondent School on behalf of the teacher, cannot be sustainable. Therefore, this Court has no hesitation to hold that the impugned orders cannot be sustained. In that view of the matter, this Court is inclined to pass the following order:-

"that the impugned orders are quashed and the matters are remitted back to the fourth respondent for re-consideration. While re-considering the same, the fourth respondent shall look into the legal position as well as available Government Orders in this regard and also any judgments made by this Court in this context, as has been quoted by the school in the proposal itself and accordingly, decide the same, on merits and in accordance with law. The needful as indicated above shall be undertaken by the fourth respondent, within a period of eight (8) weeks from the date of receipt of a copy of this order."

14.With these directions, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Myr

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Secretary to the Government,
Department of School Education,
St. George Fort, Chennai.

2.The Director of School Education,
DPI Compound, College Road,
Chennai.

3.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.

4.The District Educational Officer,
Sankarankovil, Tirunelveli District.

+1cc to Mr.S.Chellapandian, Advocate Sr.No.17913

+1cc to Spl GP SR.No.17955

Order made in

W.P. (MD)Nos.12304, 12306 and 12308 of 2020

22.09.2020

VB (05.01.2021) 5P 7C