



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

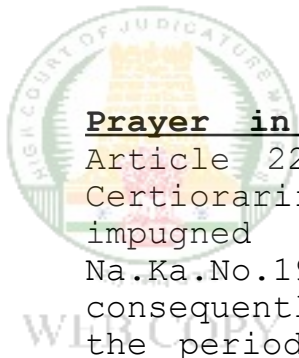
W.P. (MD).Nos.20059, 20060 and 20212 of 2014
and M.P. (MD) Nos.2, 3, 1, 2, 1 and 2 of 2014

WEB COPY

- 1.M.S.Santhosam Gunasekaran
- 2.N.Jeeva Kumar ... Petitioners in W.P.(MD)No.20059 of 2014
- 3.A.Suyambudurai ...Petitioner in W.P.(MD)No.20060 of 2014
- 4.Devaraj Edwin ...Petitioner in W.P.(MD)No.20212 of 2014

-Vs-

- 1.The State of Tamil Nadu,
represented by its Secretary to Government,
Education Department,
Chennai-9.
- 2.The Director of School Education,
College Road, Chennai-6. ... Respondents in all petitions
- 3.The District Educational Officer,
Melur Education District,
Madurai District. ... 3rd Respondent
in W.P. (MD) Nos.20059 and 20060 of 2014
- 4.The Correspondent,
A.C.Higher Secondary School,
Thallakulam, Madurai-625 002. ... 4th Respondent
in W.P. (MD) No.20059 of 2014
- 5.The Correspondent,
M.N.U.Jeyaraj Nadar Higher Secondary School,
Nagamalai, Madurai-625 019. ... 4th Respondent
in W.P. (MD) No.20060 of 2014
- 6.The District Educational Officer,
Ramanathapuram Education District,
Ramanathapuram District.
- 7.The Correspondent,
Schwartz Higher Secondary School,
Ramanathapuram-623 501 ... 3rd and 4th Respondents
in W.P. (MD) No.20212 of 2014



Prayer in W.P.(MD)No.20059 of 2014: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent vide Na.Ka.No.1947/A1/2014, dated 21.05.2014 and quash the same and consequently directing the respondents herein to pay the salary for the period from 28.07.1997 to 02.06.2003 and also to revise the increments payable to the petitioners by approving the appointment of the petitioners with all service benefits in the light of the orders passed by the Hon'ble High Court, Madras in W.P.No.19821 of 2013 and in W.P.(MD)No.17644 of 2014.

Prayer in W.P.(MD)No.20060 of 2014: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent vide Na.Ka.No.38760/D2/E2/2011, dated 20.09.2011 and quash the same and consequently directing the respondents herein to pay the salary for the period from 27.11.1995 to 02.06.2003 and also to revise the increments payable to the petitioner by approving the appointment of the petitioner with all service benefits in the light of the orders passed by the Hon'ble High Court, Madras in W.P.No.19821 of 2013 and in W.P.(MD)No.17644 of 2014.

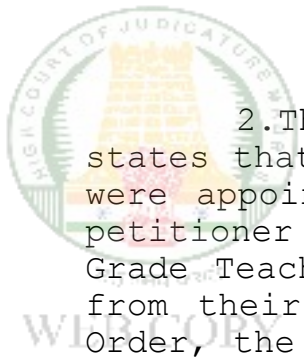
Prayer in W.P.(MD)No.20212 of 2014: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent vide Na.Ka.No.1090/A2/2014, dated 21.04.2014 and quash the same and consequently directing the respondents herein to pay the salary for the period from 28.07.1997 to 02.06.2003 and also to revise the increments payable to the petitioner by approving the appointment of the petitioner with all service benefits in the light of the orders passed by the Hon'ble High Court, Madras in W.P.No.19821 of 2013 and in W.P.(MD)No.17644 of 2014.

For Petitioner : Mr.R.Sathish
(in all petitions)

For Respondents : Mr.J.Gunaseelanmuthiah
(in all petitions) Additional Government Pleader
(for R1 to R3)

COMMON ORDER

The grievances of the writ petitioners are that they are entitled for the payment of revised increments with all service benefits.



2.The learned counsel appearing on behalf of the petitioners states that the petitioners in W.P.(MD)Nos.20059 and 20212 of 2014, were appointed as Secondary Grader Teachers on 28.07.1997 and the petitioner in W.P.(MD)No.20060 of 2014, was appointed as Secondary Grade Teacher on 27.11.1995 and their appointment was not approved from their initial date of appointment. Based on the Government Order, the similar benefit of approval of appointment from the date of actual appointment was granted and monetary benefits were also disbursed to those persons. Thus, the petitioners are also entitled for the similar benefits.

3.The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 made a submission that the Government has not issued the G.O., which has been relied on by the petitioners as well as the other persons and the order issued in G.O.Ms.No.155, is a forged Government Order and the Hon'ble Division Bench also dealt with this matter and held that that the persons, who are all benefited in the light of G.O.Ms.No.155, are not entitled for such benefits and the actions initiated by the department in this regard, is in accordance with law. This Court also followed the said Hon'ble Division Bench order in W.P.(MD) No.18198 etc., of 2013, dated 09.08.2019 and the relevant paragraphs of the said order is extracted hereunder:-

".....3.The grievances of the writ petitioners are that the approval was granted by the authority competent. However, the arrears of salary due to the writ petitioners from the date of their appointment has not been paid. The representation submitted by the writ petitioners in this regard was rejected by the third respondent, stating that the order passed by the Principal Seat of this Court in W.P.No.28647 of 2015, dated 11.09.2015 is not applicable to the writ petitioners. However, the matter went by way of an appeal before the Hon'ble Division Bench passed an order in W.A.(MD)Nos.74 of 2015 and 957 of 2016 on 21.03.2018. The relevant portion of the 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 effect 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 monetary 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 petitioner 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."

4. In view of the fact that the Hon'ble Division Bench has settled the issue, no further consideration is required and if at all any grievances exist with reference to the grant of increments to the writ petitioners, it is left open to them to approach the competent authorities for redressal of their grievances.

5. With these observations, all these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



- 1.The Secretary to Government,
State of Tamil Nadu,
Education Department,
Chennai-9.
- 2.The Director of School Education,
College Road, Chennai-6.
- 3.The District Educational Officer,
Melur Education District,
Madurai District.
- 4.The District Educational Officer,
Ramanathapuram Education District,
Ramanathapuram District.

+1 CC to SPL GP (SR-22352,22350,22349[F] dated 20/11/2020)

W.P. (MD) .Nos.20059, 20060
and 20212 of 2014
19.11.2020

VB (01.12.2020) 5P 6C