



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.6336 of 2015

T.Vaikunda lakshmi

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep by its Secretary,
Department of School Education,
Fort St.George,
Chennai-600 009.
- 2.The Director of Elementary Education,
College Road, Chennai-600 006.
- 3.The District Elementary Educational Officer,
Tuticorin, Tuticorin District.
- 4.The Assistant Elementary Educational
Officer, Sathankulam,
Tuticorin District.
- 5.The Correspondent,
TNDTA Middle School,
Athissayapuram Pastorate
Puthantharuvai
Sathankulam Taluk,
Tuticorin District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 3rd respondent District Elementary Educational Officer vide proceedings Aa.Thi.Mu.No.538/Aa2/2015 dated 11.03.2015 quash the same, and further direct the respondents 1 to 4 herein to reckon the petitioner's services as Secondary Grade Teacher in the 5th respondent School from 06.01.1987 to 31.05.1989 for all practical purposes including fixation of salary and pension benefits with arrears salary.

For Petitioner : Mr.A.Ajith Geethan

For Respondents: Mrs.S.Srimathi
Special Government Pleader



ORDER

The relief sought for in this writ petition is to quash the order dated 11.03.2015 rejecting the claim of the writ petitioner to count the period of service rendered by her as Teacher without approval of appointment or sanctioned post.

2.The petitioner is a retired Headmaster and reached the age of superannuation on 31.05.2013. The writ petition itself is filed after a lapse of 2 years from the date of retirement.

3.The grievances of the writ petitioner is that she joined the service in the Government Primary School, as Secondary Grade Teacher on 29.01.1985. Thereafter, she resigned the said post and joined the 5th respondent School viz., TNDTA Middle School, Athisiyapuram, as Secondary Grade Teacher, on 06.01.1987. The 5th respondent School is a recognized and aided private school and also a minority educational institution. The said School appointed the writ petitioner as Secondary Grade Teacher. The said School filed a writ petition in W.P.No.6455 of 1987 before the Principal Seat of this Court, to sanction grant-in-aid towards salary of three teachers working in the middle School, the case was pending. Subsequently, the writ petitioner was transferred and posted as Secondary Grade Teacher in another School in the same Management. The respondents approved the transfer of the writ petitioner and disburse the salary from 01.06.1989. However, the respondents have not reckoned the service of the writ petitioner in the 5th respondent School from 06.01.1987 to 31.05.1989. The petitioner has stated that the said period is to be reckoned for the purpose of calculating the qualifying service for paying the terminal and other benefits.

4.The learned Special Government Pleader objected the said contention by stating that during the said period from 1987 to 1989, the post was not sanctioned and the appointment of the writ petitioner was not approved. In the absence of approval of any appointment in the sanctioned post, the period cannot be taken into account for the purpose of calculating the qualification service. In this regard, this Court elaborately considered the Government Orders and passed order in W.P(MD).No.20326 of 2013, dated 28.02.2018 and the relevant paragraph is extracted hereunder:

"20. As rightly contended by the learned Additional Government Pleader, the Division Bench, in its judgment in W.A.Nos.291 and 292 of 2008, took into account G.O.Ms.No.143, which was a bogus one. Furthermore, the judgment of the Division Bench in S.DEVAKADAKSHAM's case (cited supra) was not brought to the notice of the Division Bench which heard the writ appeals in W.A.Nos.291 and 292 of 2008. The judgment S.DEVAKADAKSHAM's case (cited supra) disposed a batch of writ appeals and the Division Bench considered extensively the provisions of Tamil Nadu Recognised Private Schools (Regulation) Act,



1973 and has recorded a finding that the service rendered in a non-sanctioned post could not be counted for the purpose of pension and pay fixation. All the Teachers, who were granted benefit based on G.O.Ms.No.18, faced recovery proceedings, based on G.O.Ms.No.314, referred to above. The action based on G.O.Ms.No.314 was upheld by the Division Bench in its judgment in S.DEVAKADAKSHAM's case (cited supra). However, two cases escaped from the net and writ appeals preferred by those two Teachers in W.A.Nos.291 and 292 of 2008 alone were allowed on the sole ground that they were discriminated in the matter of counting the service rendered in the non-sanctioned post, based on the benefit given to a teacher in terms of G.O.Ms.No.18?

10. In view of the judgment, the same claim made out in the writ petition deserves no further consideration and the writ petition is to be dismissed both on the merits and on the ground of laches.

11. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed."

5. In view of the above, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ns

To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George,
Chennai-600 009.
2. The Director of Elementary Education,
College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
Tuticorin, Tuticorin District.



4.The Assistant Elementary Educational
Officer, Sathankulam,
Tuticorin District.

5.The Correspondent,
TNDTA Middle School,
Athissayapuram Pastorate
Puthantharuvai
Sathankulam Taluk,
Tuticorin District.

W.P. (MD)No.6336 of 2015

27.11.2020

SK(CO)

NR (17/12/2020) 4P : 6C