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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2021

CORAM

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE A.A. NAKKIRAN

W.A. No. 797 of 2016
&
C.M.P. No. 10497 of 2016

1. The State of Tamilnadu,
rep. by its Principal Secretary
to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 6.
3. The District Elementary Educational
Officer,
Nagapattinam District, Nagapattinam.

..Appellants/Respondents

Vs.

S. Shanmugavelu
S/o. S. Saravanamuthu,
BT Assistant,
Panchayat Union Middle School,
Arpakkam, Kollidam Union,
Nagapattinam District.

..Respondent

Prayer: Writ Appeal as against the order dated 22.07.2015
passed in W.P. No. 21735 of 2015.

Prayer in W.P.No.21735 of 2015: 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 proceedings issued by the 2nd respondent in



Na.Ka.No.11825/D3/2010 dated 20.4.2010 and subsequent order issued by the 3rd respondent in Na.Ka.No.1006/Aa4/2015 dated 25.5.2015 and to quash the same and consequently direct the respondents to promote the petitioner to the post of Middle School Headmaster on par with juniors given promotion based on 2010 panel by reckoning the services from the date of initial appointment in the post of Secondary Grade Assistant as regularized as per G.O.Ms.No.336 School Education Department dated 30.12.2009 with corresponding revision of Seniority in the promoted post with all consequential and other attendant benefits including arrears of Salary within a time frame.

For Appellants :: Mr.K.V. Sajeev Kumar

For Respondent :: Mr.G. Sankaran

J U D G M E N T

(Judgment of the Court was delivered by S. VAIDYANATHAN,J.)

The present writ appeal has been preferred as against the order dated 22.07.2015 passed in W.P. No. 21735 of 2015.

2. The respondent was appointed as Secondary Grade Assistant (Junior Grade) in Elementary Education on consolidated pay on 17.06.1991 in a sanctioned post and later brought into regular time scale of pay with effect from 01.09.1992. Based on the order passed by this Court in W.A. No. 221 of 1991 etc batch dated 30.07.1999, G.O.Ms. No. 336 School Education (M1) Department dated 30.12.2009 came to be issued and the respondent's service was regularised in the post of Secondary Grade Assistant from the date of initial appointment i.e, 17.06.1991 and was granted regular time scale of pay on that basis. However, the Director of Elementary Education, issued proceedings dated 20.04.2010 stating that the date of initial appointment would be taken into account only for the purpose of time scale of pay, Selection Grade and Special Grade, but not for the purpose of seniority. Aggrieved over the said proceedings, the respondent filed the writ petition and the same came to be disposed of by the impugned order with the following directions:

"9. The second respondent is directed to pass fresh order in the light of the judgment dated 30.07.1999 made in W.P.Nos. 221 of 1991 etc batch and G.O.Ms. No. 336 School Education Department dated 30.12.1999 by taking into account the date of initial



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appointment of those Teachers, who were appointed under G.O.Ms. No. 1524 Education (M-1) Department dated 12.11.1990 for seniority. The second respondent is directed to pass appropriate orders in the above terms within a period of four weeks from the date of receipt of a copy of this order. "

Challenging the said order, the present writ appeal has been preferred by the Government.

3. Heard both parties.

4. Relying upon the earlier orders of this Court, the learned Single Judge had held that when the appointments are neither irregular nor illegal, the initial date of appointment shall be taken into account for the purpose of seniority. Eventhough the learned Government Counsel attempted to distinguish the order passed in W.P. No. 221 of 1991 etc batch based on which G.O.Ms. No. 336 dated 30.12.2009 came to be issued on the ground that those teachers are regular appointees and the respondent/writ petitioner was appointed on consolidated pay, this Court is not inclined to go into the issue whether the teachers appointed have got to be brought under time scale of pay and whether the initial date of appointment needs to be taken into account for the purpose of granting the relief.

5. Taking note of the fact that identically placed persons have been given the benefit of the order dated 30.07.1999 in W.P. No. 221 of 1991 etc batch and the Government had issued G.O. Ms. No. 336 dated 30.12.2009 taking into account the date of initial appointment of the teachers for the purpose of seniority, the same yardstick has got to be applied to the respondent/writ petitioner also. Hence, we find no reason to interfere with the order under challenge and the writ appeal is dismissed. No costs. Connected C.M.P. is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 6.
3. The District Elementary Educational
Officer,
Nagapattinam District, Nagapattinam.

+1cc to M/s.G.Sankaran, Advocate, S.R.No.52532

+1cc to the Government Pleader, S.R.No.52777

W.A. No. 797 of 2016

VG-II (CO)
SU(24/11/2021)