

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.5589 of 2016
and
W.M.P.No.4941 of 2016

K.Prabhavathi

... Petitioner

Vs

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

2.The Director of School Education,
College Road,
Chennai - 600 006.

3.The Chief Educational Officer,
Ariyalur and District.

4.The District Educational Officer,
Ariyalur and District.

5.The Headmaster, Government High School,
Kizhayur,
Ariyalur and District - 621 704.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to pay salary as Graduate Teacher from 01.06.2002 in terms of Government Order No.79 School Education Department dated 14.06.2002 with effect from 01.06.2002 and Selection Grade pay to the petitioner as B.T. Assistant from 01.06.2012 after adjusting the salary whichever is paid as secondary grade teacher salary from 01.06.2002 and B.T. Assistant from 29.10.2007.

For Petitioner : Mr.V.Krishnamurthy

For Respondents : Mr.P.Raja, GA

ORDER

The relief sought for in this writ petition is to direct the respondents to pay salary as Graduate Teacher from

01.06.2002 in terms of G.O.Ms.No.79 School Education Department, dated 14.06.2002 and Selection Grade pay to the petitioner as B.T. Assistant from 01.06.2012.

2.It is the case of the petitioner that she was appointed as Secondary Grade Teacher in the Panchayat Union Middle School, Rayampuram on 28.09.1999 through Employment Exchange and was handling classes from 6th to 8th standard in the subject of Maths and she was paid secondary grade teacher salary till she was promoted as BT Assistant in the said school, and her promotion as BT Assistant was approved from 29.10.2007. According to the petitioner, the Government by G.O.Ms.No.79, School Education Department, dated 14.06.2002, upgraded the secondary grade teacher vacancies in Standard VI to VIII i.e., middle class graduate teacher post on time scale pay to the teachers handling English, Science and Mathematics from 2002-03, as per which, the petitioner ought to have been granted the graduate teacher scale from 01.06.2002, whereas she was paid salary as BT Assistant only from 29.10.2007. Hence, she made representations to the respondents seeking to pay salary as Graduate Teacher from 01.06.2002 in terms of the said G.O.Ms.No.79, dated 14.06.2002 and selection grade pay from 01.06.2012. Finding no response on the same, the petitioner has come up with this writ petition for the aforesaid relief.

3.Upon notice, the respondents filed a detailed counter affidavit, wherein, it is inter alia stated that the petitioner was initially appointed as Secondary Grade Teacher in Panchayat Union Middle School, Rayampuram, after her name was sponsored by the Employment Exchange and she was paid Secondary Grade salary from 29.09.1999; the said school was upgraded as a High school by the order of the Government in G.O.Ms.No.84, School Education Department, dated 16.05.2005 with effect from the academic year 2005-06; consequently, the secondary grade teacher post was upgraded and the petitioner was appointed as such with effect from 17.01.2006 in the very same school, which was confirmed by the proceedings of the Chief Educational Officer in Na.Ka.No.1648/05/A1 dated 17.01.2006 and the order of the Headmaster dated 18.01.2006, however, she was paid Graduate teacher salary only from 29.10.2007 i.e., the date of regularisation of service. It is further stated therein that in view of the undertaking given by the petitioner on 06.04.2006 to the effect that "she will not claim the salary of BT Assistant and Duty period privileges and also incentive increment in the higher post", which was also entered in her service register and mentioned in the proceedings of the District Elementary Educational Officer bearing No.1291/B1/99 dated 29.09.1999, the claim of the petitioner that she is entitled to get Graduate teacher salary for the period from 01.06.2002 to 28.10.2007, will not be taken into consideration.

4.The aforesaid averments made in the counter affidavit have been seriously refuted by the learned counsel for the petitioner. According to him, though the post of the petitioner was upgraded as BT Assistant pursuant to G.O.Ms.No.79, dated 14.06.2002, she was paid the graduate teacher scale only from 29.10.2007 and therefore, she is entitled to get BT Assistant salary from 01.06.2002 till 28.10.2007 and selection grade pay on completion of 10 years i.e., with effect from 01.06.2012. Stating so, the learned counsel prayed for appropriate direction to the respondents in this regard.

5.Heard the learned Government Advocate appearing for the respondents, who made his submissions reiterating the averments made in the counter affidavit.

6.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court, without going into the merits of the case, directs the respondents to consider the claim of the petitioner and pass appropriate orders, on merits and in accordance with law and also in the light of G.O.Ms.No.79, School Education Department, Dated 14.06.2002, within a period of eight (8) weeks from the date of receipt of a copy of this order.

7.This Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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

2.The Director of School Education,
College Road, Chennai - 600 006.

3.The Chief Educational Officer,
Ariyalur and District.

4.The District Educational Officer,
Ariyalur and District.

5.The Headmaster, Government High School,
Kizhayur, Ariyalur and District - 621 704.

+1cc to Mr.N.Krishnamurthy, Advocate, S.R.No.11237
+1cc to the Government Pleader, S.R.No. 11570

W.P.No.5589 of 2016

RGN (CO)
GN (02/07/2021)



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