



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cont.P. (MD)No.44 of 2021

WEB COPY

L.Gurunathan

... Petitioner/Petitioner

Vs.

1.S.Kannappan,

The Director of School Education,
Office of the Director of School Education,
Chennai - 6.

2.T.Chidambaranathan,

The District Educational Officer,
Tenkasi, Tirunelveli District.
Now shifted to and Bifurcated as
The District Educational Officer,
Sankarankovil, Tenkasi District.

... Contemnors/Respondents 1 & 2

Prayer: Petition filed under Section 11 of the Contempt of Court Act, to punish the respondents for their deliberate and wilful disobedience of the order of this Court, dated 04.10.2016 made in W.P. (MD)No.6783 of 2011.

Prayer in WP(MD). 6783 of 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to proceedings O.Mu.No.114394/D2/E3/09 dated 21.12.2009 of the 1st respondent herein and consequential letter O.Mu.No.2061/A1/2009 dated 03.02.2010 of the 2nd respondent herein and consequential letter Na.Ka.No.58/2008 dated 17.06.2011 of the 3rd respondent herein and quash the same and consequently direct the respondents herein to count the matriculation service rendered by the petitioner for the period 27.10.1980 to 23.07.1992 for pay fixation and pensionary benefits with all attended benefits.

For Petitioner	:	Mr.T.Pon Ramkumar
For Respondents	:	Mrs.S.Srimathy Special Government Pleader



ORDER

This Contempt Petition is filed to punish the respondents for their deliberate and wilful disobedience of the order of this Court, dated 04.10.2016 made in W.P.(MD)No.6783 of 2011.

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2. The petitioner was appointed in the year 1980 as Secondary Grade Teacher in the unaided St.Marris Matriculation Higher Secondary School, Sembium, Chennai and he was promoted as Teaching Assistant on 01.06.1992 in the said school and the petitioner resigned the said job on 22.07.1992 and joined as B.T. Assistant in the third respondent school. Since the petitioner has worked continuously without any break and proper Service Register was maintained in St.Marris Matriculation Higher Secondary School, Sembium, Chennai-11 and based on the G.O.Ms.No.143, dated 30.01.1987, the second respondent, vide proceedings dated 04.03.1996 awarded selection grade with effect from 23.07.1992 by calculating the services rendered by the petitioner in St.Marris Matriculation Higher Secondary School, Sembium, Chennai-11. Though the selection grade was awarded as early as in the year 1992, the second respondent has not awarded the special grade. In the year 2008, an objection was raised in the audit inspection by the Zonal Audit office, School Education, Madurai that service rendered by the petitioner in the Matriculation school should not be taken into account for pay fixation and selection grade was wrongly given to the petitioner and hence, the excess payment should be refunded.

3. Challenging the same, the petitioner filed the writ petition in W.P.(MD)No.6783 of 2011 before this Court and for further direction to direct the respondents to count the matriculation service rendered by the petitioner for the period from 27.10.1980 to 23.07.1992 for pay fixation and pensionary benefits with all attendant benefits. This Court, vide order dated 04.10.2016 allowed the writ petition, based on G.O.Ms. No.143, dated 04.03.1996 and in the light of the decision of the Honourable Supreme Court and this Court issued directions to the respondents to pay the benefits as sought for in the writ petition. For non-compliance of the said order, the present Contempt Petition is filed.

4. The respondents filed the calculated service benefits from 23.07.1992 to till the date of retirement.

5. The contention of the petitioner is that the petitioner is entitled to receive the service benefits from the date of his initial appointment in the Matriculation school in the year 1980. However, the respondents have not calculated the service rendered by the petitioner in the Matriculation school from 27.10.1980 to 22.07.1992 and hence, he filed the present contempt petition.



6. Learned Special Government Pleader appearing for the respondents would submit that the service period from 27.10.1980 to 22.07.1992 was rendered in the unaided school by the petitioner, which is not entitled for calculation and this Court allowed the writ petition only based on G.O.Ms.No.143, dated 04.03.1996 and subsequently, the Division Bench of this Court has held that the said G.O.Ms.No.143, dated 04.03.1996 is bogus and based on the misrepresentation, the said writ petition was allowed and hence, the petitioner is not entitled to calculate the said period of service rendered in the unaided Matriculation school.

7. Heard the learned Counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials placed on record.

8. This Court perused the order of this Court dated 04.10.2016 made in W.P.(MD)No.6783 of 2011, which was passed based on G.O.Ms.No.143, dated 04.03.1996. Further a perusal of the decision of the Hon'ble Division Bench of this Court reported in (2006) 4 M.L.J.1580 (S.Devakadaksham V. District Educational Officer), it is clearly held that the said G.O.Ms.No.143, dated 04.03.1996 is bogus. Therefore, based on the said Government Order, this writ petition is allowed. Hence, there is no contempt committed by the respondents. Accordingly, this Contempt Petition is dismissed. The respondents are directed to calculate the entire benefits from 23.07.1992 to till the date of retirement and settle the same to the petitioner within a period of six weeks from the date of receipt of a copy of this order. Further it makes it clear that no recovery can be made in the amount which was already paid to the petitioner.

Sd/-

Assistant Registrar(T & P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SSL

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.



To

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+1 CC to M/s.T.PON RAMKUMAR, Advocate SR-12329[F] dated 18/03/2021

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kmv (CO)

TR(31.03.2021) 4P 4C