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W.A.(MD) No.1305 to 1316 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2021

CORAM

THE HON'BLE MR.JUSTICE T. S. SIVAGNANAM

and

THE HON'BLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.1305 to 1316 of 2021

and C.M.P. (MD)No.4271 of 2021

and Connected Miscellaneous petition.

W.A. (MD)No.1305 of 2021

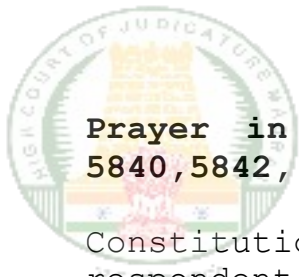
- 1.The Secretary,
Government of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director of School Education,
DPI Campus,
College Road, Chennai - 600 006.
- 3.The Director of Elementary Education,
School Education,
DPI Campus,
College Road, Chennai - 600 006.

...Appellants/
Respondent in all WAs

-Vs-

S.Sujatha	...Respondent in WA (MD) .No.1305 of 2021
S.Suseela	...Respondent in WA (MD) .No.1306 of 2021
M.Prakeash	...Respondent in WA (MD) .No.1307 of 2021
K.Ravichandran	...Respondent in WA (MD) .No.1308 of 2021
S.Soni	...Respondent in WA (MD) .No.1309 of 2021
Badrinarayanan	...Respondent in WA (MD) .No.1310 of 2021
Gururajan	...Respondent in WA (MD) .No.1311 of 2021
S.Sivakumar	...Respondent in WA (MD) .No.1312 of 2021
Rajeaswari	...Respondent in WA (MD) .No.1313 of 2021
V.Ramaiyan	...Respondent in WA (MD) .No.1314 of 2021
Ravichandran	...Respondent in WA (MD) .No.1315 of 2021
C.Pandian	...Respondent in WA (MD) .No.1316 of 2021

Prayer: Writ Appeals are filed under clause 15 of Letter Patent Act, Praying this Hon'ble Court against the order dated 20.03.2020 made in WP. Nos.5829 to 5830,5831,5834,5835,5837,5838,5840,5842,5844,5347 and 5850 of 2020 respectively.



Prayer in WP(MD). 5829 to 5830, 5831, 5834, 5835, 5837, 5838, 5840, 5842, 5844, 5347 and 5850 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Directing the 1st respondent herein to regularize the petitioners service from the initial date of appointment till 01.06.2006 with all consequential monetary and service benefits of Teachers in the light of the judgement of this Honble Court in WP.No. 4991 of 2015, dated 30.07.2019.

For Appellants : Mr.A.K.Manikkam,
(In all W.As.) Standing Counsel for Government
For Respondents : Ms.G.K.Chitradevi,
(In all W.As) for Mr.J.Anto Prince.

COMMON JUDGMENT

[Judgment of the Court was made by T. S. SIVAGNANAM, J.,]

Heard Mr.A.K.Manikkam, learned Standing Counsel for the Government, appearing on behalf of the appellants and Ms.G.K.Chitradevi, for Mr.J.Anto Prince, learned counsel appearing of the respondents.

2. These Writ Appeals are directed against the common order made in W.P.(MD) Nos.5829 of 2020 etc. batch, dated 20.03.2020.

3. The identical order was considered for its correctness in batch of Writ Appeals in W.A.(MD)Nos.299 of 2021 etc., batch, and by judgment dated 01.06.2021, the Writ Appeals were allowed. The operative portions of the said judgment read as follows:

"57. In our considered view, the said decision regularising the teachers, who were appointed in the year 1990 can be of no assistance to respondents 1 to 18 herein. The reason being the terms and conditions of their appointment and how they were treated at the first instance. Above all, respondents 1 to 18, having accepted the appointments, joined the post, worked on consolidated wages and having enjoyed the benefit of regularisation granted in 2006, which itself was a big concession granted to them, are wholly estopped from contending that the services rendered by them as Junior Grade Teachers on consolidated pay should also be reckoned for all purposes including monetary benefits. The plea is thoroughly misconceived. Equally the decision in W.P.Nos.21316 and 21317 of 2015 can in no manner advance the case of respondents 1 to 18.

*58. The learned counsel has placed reliance on the decision in the case of **Direct Recruit Class II Engineering Officers Association vs. State of***



Maharashtra & Ors., [(1990) 2 SCC 715]. This decision can be made applicable to determine the status of a person, who was appointed to a post according to the rule and status of a person, who was appointed on ad hoc basis and not according to rules. In the first category of cases, it has been held that they should be given the benefit of seniority and their period of service shall be counted from the date of their appointment and not from the date of their regularisation or confirmation. This decision cannot be applied to the case of respondents 1 to 18, as they were appointed to a post, which was a post created by downgrading an existing post, given a different nomenclature, viz. Junior Grader Teacher with salary paid on consolidated basis. The terms and conditions of recruitment were made known to all the candidates including respondents 1 to 18. Therefore, they can never raise a plea that their recruitment having been done by TRB, is in accordance with the Rule and therefore, their seniority should be counted from the date of appointment. It may be true that the recruitment was done by the TRB, but it was a special recruitment for a specific purpose to a special category of post with wages on consolidated basis. Therefore, the decision of the Hon'ble Supreme Court cannot be applied to the case of respondents 1 to 18.

59. That apart, the belated attempt made by the respondents / writ petitioners is liable to be rejected for several reasons. Firstly, they are estopped from contending contray to the Government Orders, contrary to the terms and conditions of the Government Orders and contrary to the conditions contained in the agreement to which they have agreed. Secondly, the challenge to the policy decision to downgrade the post to that of the Junior Grade Teacher was rejected and the decision of the Government has been upheld. The request made by some of the teachers to reckon the period of service prior to 01.06.2006 was directed to be considered by the Director of School Education pursuant to an order passed in a writ petition. The representation was considered and rejected and the same has not been challenged and after lapse of nearly fourteen years, suddenly the respondents / writ petitions have come up with this fanciful claim, which is absolutely untenable and unsustainable in law.

60. The present attempt of the respondents / writ petitioners is to march over the regularly promoted PG Assistants, who are only 62 number, whereas the Junior Grade Teachers, like the respondents / writ petitioners



are more than 3000. Thus, the relief sought for by the respondents / writ petitioners is misconceived and liable to be rejected and accordingly, rejected.

61. In the result, the writ appeals are allowed and the orders and directions issued in the writ petitions are set aside and consequently, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

4. Following the said Judgment, these Writ Appeals are allowed on the same lines and the orders and directions issued in the Writ Petitions are set aside and consequently, the Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

vsm

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

- 1.The Secretary,
Government of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director of School Education,
DPI Campus,
College Road, Chennai - 600 006.
- 3.The Director of Elementary Education,
School Education,
DPI Campus,
College Road, Chennai - 600 006.



+1 CC to M/s.SPL GP (SR-21745[F] dated 08/07/2021)

W.A. (MD) No.1305 to 1316 of 2021
and C.M.P. (MD) Nos.5464 to 5476 of 2021
06.07.2021

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