



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.363 of 2019

Tmt.C.Subbammal

...Appellant / Petitioner

Vs.

1. The Secretary to Government,
Government of Tamilnadu,
School Education Department,
Fort St.George,
Chennai - 600 009.
2. The Director of School Education,
DPI Compound, College Road,
Chennai - 600 006.
3. The District Educational Officer,
Karur,
Karur District.

....Respondents / Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letter Patent Act, to allow this Writ Appeal by setting aside the order passed in W.P. (MD).No.10307 of 2012 dated 07.02.2018 on the file of this Court.

Prayer in WP(MD) . 10307/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, in the nature of writ, directing the respondents herein to regularize the petitioner s service from the date of appointment (i.e 23.12.1991) and consequently direct the respondents herein to pay all monetary and other service benefits to the petitioner forthwith and to pass such further or other orders.

For Appellant : Mr.M.V.Venkateseshan

For Respondents : Mr.R.Baskaran,
Standing Counsel for Govt.
For R1 to R3.



J U D G M E N T

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

The appellant is the Writ Petitioner and is before this Court challenging the correctness of the order passed in W.P(MD).No.10307 of 2012 dated 07.02.2018, by which, the Writ Petition filed by the appellant was dismissed.

2. The appellant sought for issuance of a Writ of Mandamus, to direct the respondents to regularise her service from the date of appointment ie., on 23.12.1991. The Writ Petition was dismissed stating that the initial appointment of the appellant itself was irregular and the appellant was regularised only based upon a decision taken by the Government in G.O.Ms.No.116, (School Education (R1) Department), dated 05.08.2011 and regularisation was granted only from the said date of the order. Therefore, we find that the learned Writ Court was right in rejecting the relief sought for. Hence, we find no grounds to interfere with the said order.

3. The learned counsel for the appellant pointed out that in the year 2015, this Court has considered an identical case of one Thiru.R.Solai Rasu and granted benefit under G.O.Ms.No.3D 36, School Education (4(1)) Department dated 02.06.2015. This Government Order being an order passed subsequent to the finding of the writ petition, we left open to the appellant to file a fresh representation before the concerned authority by placing reliance of the said order and if the same is submitted, it may be considered in accordance with law.

4. The learned counsel for the appellant submitted that there are other Government Orders, which have been issued much earlier to 2015 ie., G.O.123, School Education (R1) Department, dated 17.08.2011 and it was referred to by the appellant in paragraph No.5 of the affidavit filed in support of the writ petition. However, we are on the legal issue, namely, whether the appellant is entitled to claim regularisation anterior to date of the Government Order. If the Government takes a decision in the appellant's case, it is up to them to do so. But, sofar as the learned Writ Court is concerned, it cannot set the clock back and grant benefit to the appellant prior to the date mentioned in the Government Order, but, for which the appellant could not have become a regular employee.

5. With these observations, this Writ Appeal stands dismissed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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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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