



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD)No.19575 of 2017

WEB COPY

Selvarani

... Petitioner

Vs.

- 1.The Secretary,
Department of School Education,
State of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai -9.
- 2.The Director of School Education,
DPI Campus,
Chennai -6.
- 3.The District Educational Officer,
Thoothukudi District,
Thoothukudi.
- 4.The Correspondent,
Bishop Azariah Memorial Higher Secondary School,
Vellalanvilai,
Thoothukudi District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to re-fix the service of the petitioner's husband viz., Mr.Gopal, Physical Education Teacher, by approving his service in the post of Physical Education Teacher in 4th respondent School from his date of appointment on 01.08.2001 and to revise the monetary benefits and to pay the arrears after re-fixation within a stipulated time, by considering the petitioner's representation, dated 24.07.2017.

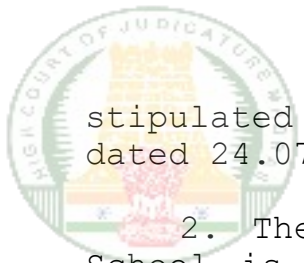
For Petitioners: Mr.T.A.Ebenezer

For R1 to R3 : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader

For R4 : Mr.Kingsly Soloman

O R D E R

This writ petition has been filed for a direction to the respondents to re-fix the service of the petitioner's husband viz., Mr.Gopal, Physical Education Teacher, by approving his service in the post of Physical Education Teacher in 4th respondent School from his date of appointment on 01.08.2001 and to revise the monetary benefits and to pay the arrears after re-fixation within a



stipulated time, by considering the petitioner's representation, dated 24.07.2017.

2. The case of the petitioner is that the fourth respondent School is an Aided Christian Minority School administered by CSI Thoothukudi Nazareth Diocese receiving regular grant from Government. The petitioner's husband was appointed as Physical Education Teacher on 01.08.2001, in the fourth respondent School, due to the retirement of Mrs.A.Reginal Persial Pakiavathy, on 31.07.2001. Thereafter, the fourth respondent School sent a proposal to the third respondent on 28.02.2002, for approval. But the third respondent has failed to consider the same. In the mean while, the Government issued G.O.(Ms).No.100, School Education Department, dated 27.06.2003, directing all the teachers appointment in all the aided schools to be filled on consolidated pay only. Hence, the petitioner's husband appointment was approved from 02.06.2005, on consolidated pay. Subsequently, as per G.O.(Ms.).No.99, his appointment was approved in regular time scale of pay from 01.06.2006. Unfortunately, the petitioner's husband was affected by cancer and died on 03.07.2011, while he was in service. If his appointment is approved, as per the proposal sent by the fourth respondent School, 28.02.2002, he would get the time scale of pay from 01.08.2001. Hence, the petitioner has made a representation to the third respondent on 17.01.2012. However, till date the said representation was not considered. Therefore, the petitioner has filed the present writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that the petitioner's husband is eligible to get the time scale of pay from 01.08.2001. However, due to the lapse on the part of the third respondent, he lost his salary and other benefits. Hence, this Court may issue a direction to the respondents to re-fix the service of the petitioner's husband from the date of appointment ie., on 01.08.2001 and to revise the monetary benefits.

4. Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for the respondents 1 to 3, the learned counsel appearing for the fourth respondent and perused the materials available on record.

5. Admittedly, the fourth respondent School is an Aided Christian Minority School administered by CSI Thoothukudi Nazareth Diocese. The petitioner's husband was appointed as Physical Education Teacher on 01.08.2001, in the fourth respondent School. As per G.O.(Ms.).No.99, his appointment was approved in regular time scale of pay from 01.06.2006.

6. The above facts are not in dispute. It is the admitted case of the petitioner that her husband died on 3.7.11 and seeking regularisation in appointment from 1.8.2001, the petitioner filed service petition on 7.1.12. After the said representation, the



petitioner has filed this petition only in the year 2017. There is no iota of reason adduced by the petitioner for the delay in filing this petition after five years of the representation except pointing about the pendency of the representation, which reason, this Court finds unable to accept. The petitioner has not been diligent enough in coming before this Court at the earliest point of time and waiting for the respondents to pass orders of the representation and, thereafter, filing the present petition after a period of five years of the representation cannot evoke the sympathy of this Court to come to the aid of the petitioner. The petitioner should have been diligent enough in getting her grievance redressed and cannot wait interminably and come at a belated point of time seeking for relief. Hence, this Court is not inclined to grant the relief sought for by the petitioner in this writ petition.

7. For the reasons aforesaid, this writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv
To

1.The Secretary,
Department of School Education,
State of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai -9.

2.The Director of School Education,
DPI Campus,
Chennai -6.

3.The District Educational Officer,
Thoothukudi District,
Thoothukudi.

+1 CC to M/s.SPL GP (SR-12531[F] dated 19/03/2021)

+1 CC to M/s.T.A.EBENEZER, Advocate (SR-12844[F] dated 22/03/2021)

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