



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.20565 of 2017

WEB COPY

S.Meenambal

... Petitioner

Vs.

1.The District Elementary Educational Officer,
Thanjavur District.

2.The Assistant Educational Officer,
Peravoorani at Avanam,
Thanjavur District.

3.The Secretary,
Kalaimagal Middle School,
Thuravikadu,
Peravoorani Taluk,
Thanjavur District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents herein to pay the increment, incentive and all other benefits from 12.11.1997 to till date at par with the regularized B.T Assistant in Secondary Grade Post.

For Petitioner : Mr.A.Rajkumar Sen

For Respondents : Mrs.S.Srimathy
Special Government Pleader
for R.1 & R.2

: No appearance
for R.3

* * * * *

ORDER

This Writ Petition is filed seeking for issuance of a writ of Mandamus, directing the respondents herein to pay the increment, incentive and all other benefits from 12.11.1997 to till date at par with the regularized B.T Assistant in Secondary Grade Post.

2. The case of the petitioner is that the petitioner belongs to Adi Dravidar community and she is qualified in M.A., M.Phil and

<https://hseervices.courts.gov.in/hseervices/>



B.Ed., and her name was forwarded by the employment exchange and on that basis, she was initially appointed as B.T.Teacher in the Secondary Grade Post in the third respondent private aided school governed under the provisions of the Tamil Nadu Private School (Regulation) Act and Rules framed thereunder. The petitioner put more than 20 years of continuous service. The further case of the petitioner is that the petitioner's initial appointment was made on 12.11.1997 in the permanent vacancy caused by the death of one A.Arunachala Pandian on 26.05.1995 employed as B.T.Assistant in Secondary Grade Post in the third respondent School. The petitioner was appointed in the said vacancy on 12.11.1997 with higher qualifications. Her appointment was provisionally approved by the first respondent vide order dated 28.05.1998 from the date of her initial appointment, with probation of two years in the pay scale of Rs.1200-30-1560-2040 imposing certain conditions.

3. As per condition No.2 of the proceedings, services of those B.T. Assistant appointed in Secondary Grade post not eligible for the purpose of promotion and can continue as secondary grade teacher. Further the condition No.3 provides that those appointed on this category is not eligible for incentive increment for additional qualification and pension benefit. Thereafter, the second respondent opened service register for the petitioner from the date of joining. While so, the first respondent regularized the petitioner's service by permanent approval of her appointment vide proceedings dated 31.10.2003 with conditions for eligibility to draw increment and other service benefits as much as her initial appointment was approved by the first respondent vide proceedings dated 28.05.1998 and thereafter, the petitioner ws fully eligible to draw increment and revised pay from the date of initial appointment till regularization on 31.10.2003.

4. In this aspect, the Government of Tamil Nadu issued G.O.Ms.No.83 of School Department, dated 28.04.2017 and issued a circular dated 04.05.2017 by totally relaxed the condition Nos.2 and 3 imposed at the time appointment by the first respondent as stated above, permitting the appointed secondary school teacher (SC/ST) from 1997 to 2000 with all benefits of incentive increment for their higher studies with enhanced salary and pension benefit and also eligible for promotion. In order to avail the said benefit, the present writ petition is filed.

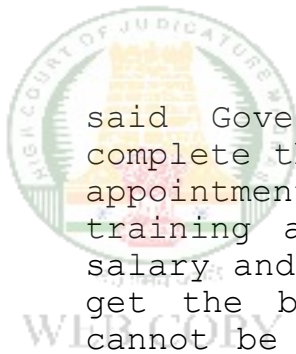
5. Learned Counsel appearing for the petitioner would submit that though the petitioner initially appointed as Secondary Grade Teacher, she possessed higher qualifications, however, she was appointed as Secondary Grade Teacher with conditions. However, subsequently, the said conditions were relaxed by the Government vide G.O.Ms.No.83 of School Department, dated 28.04.2017 by permitting the appointed secondary school teacher from 1997 to 2000 with all benefits of incentive increment for their higher studies and pension benefit and also eligible for



promotion. Since the same was not extended to the petitioner, the petitioner has filed the present writ petition. Hence, the learned Counsel for the petitioner would pray for appropriate orders.

6. Learned Special Government Pleader appearing for the respondents 1 and 2 would submit that the appointment of B.T. Tamil Pandits in the Secondary Grade Teacher post was banned by the State Government vide G.O.Ms.No.559, Education, Science and Technology Department, dated 11.07.1995, wherein the Government Order clearly states that the Director of Elementary Education issued a direction not to approve the appointment of B.T. Tamil Pandits in the Secondary Grade Teacher vacancies in future in all kinds of schools including minority schools. Challenging the said Government Order, aggrieved persons viz., the Secondary Grade teachers, who were appointed as B.T., Tamil Pandits filed writ petitions before this Court and all those writ petitions were dismissed and aggrieved by that, writ appeals were filed in W.A.Nos.991 to 998 of 1998 eetc., Batch cases and the issue was elaborately considered and the Division Bench of this Court upheld the validity of the Government Order in G.O.M.No.559, dated 11.07.1995 and held that the Government Order is perfectly valid and the order passed by the learned Single Judge was confirmed.

7. Thereafter, the State issued a Government Order in G.O.Ms.No.155, dated 03.10.2002 and particularly in sub paragraph (3) of paragraph No.3, it would state that after finishing child psychology only their salary be fixed as secondary grade salary, past salary will be recovered and the teachers are not entitled to promotion based on past service and past service will not be taken for pension and no incentive increment for higher qualification. Against the said Government Order, writ petitions were filed and the same were dismissed and on appeal, the Division Bench of this Court gave a direction by directing that B.Ed., Graduates and qualified Tamil Pandits who are appointed in Secondary Grade Vacancies, shall undergo one month child Psychology through D.I.E.T., in their own expenses and the Director of School Education shall take necessary steps and the Director of Teacher Education shall make arrangements for training through the Principal, D.I.E.T., and issue completion certificate for the short term course. Further, the persons who are appointed as Secondary Teachers with higher qualifications, the salary for the above said period would not be granted and the salary would be paid from the date of completion of training after approving the appointments of the said Secondary Grade Teachers. Again the said Government Order was challenged before this Court by filing a writ petition and the same was also dismissed and on appeal, the writ appeal was allowed to the extent that any amount is paid during that period, recovery cannot be made. Further, in the present case, the petitioner was initially appointed as B.T., Assistant in the Secondary Grade Post and his appointment was approved after completion of child psychology training. As per



said Government Order in G.O.Ms.No.155, the petitioner should complete the child psychology training. Therefore, the petitioner's appointment was approved only after completion of child psychology training and from that date onwards, she is entitled to receive salary and other benefits and prior to that, she is not entitled to get the benefits. Therefore, the claim made by the petitioner cannot be considered and therefore, the learned Special Government Pleader would pray for dismissal of the writ petition.

8. Heard the learned Counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 and 2 and perused the materials placed on record.

9. The facts in the present case are not in dispute. Admittedly, the petitioner was appointed as Secondary Grade Teacher on 12.11.1997 in the permanent vacancy caused by the death of one Arunachala Pandian on 26.05.1995 employed as B.T.Assistant in Secondary Grade post. The petitioner was appointed in the second vacancy on 12.11.1997 with higher qualifications. It is also not in dispute that G.O.Ms.No.559, Education, Science and Technology Department, was issued on 11.07.1995, wherein the Government issued direction not to approve the appointment the appointment, which was made contrary to the said Government Order. Though the petitioner's appointment was initially approved by the first respondent on 28.05.1998 with conditions that services of those B.T. Assistant appointed in Secondary Grade post not eligible for the purpose of promotion and can continue as secondary grade teacher and with further condition that those appointed on this category is not eligible for incentive increment for additional qualification and pension benefit, the fact remains that the petitioner's appointment was approved on 31.10.2003, after completion of child psychology training as per G.O.Ms.No.155, School Education (D2) Department, dated 03.10.2002.

10. Further the petitioner claimed that as per G.O.Ms.No.83, dated 28.04.2017, the earlier conditions imposed by the first respondent dated 28.05.1998 should be relaxed and accordingly, she claimed all the benefits of incentive increment for her higher studies with enhanced salary and pension benefit and for promotion. However, on a perusal of the said Government Order, it would make it clear that the said Government Order in G.O.Ms.No.83, dated 28.04.2017 was issued to the Secondary School Teacher (SC/ST), who were appointed in the backlog vacancies. Hence, the said Government Order is not applicable to the petitioner, since the petitioner is completely different from the persons who were mentioned in the said Government Order. Further on a perusal of the Government Order in G.O.Ms.No.559, dated 11.07.1995, it makes it clear that for the persons who were appointed with higher qualification, their salary will be paid from the date of completion for training after approving the appointments of the said Secondary Grade Teachers. The petitioner completed her child psychology training



on 31.10.2003 and thereafter, his appointment was approved.

11. For the reasons stated above, the prayer sought for in the writ petition is misconceived and accordingly, the Writ Petition is liable to be dismissed and the same is dismissed. No costs.

WEB COPY

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 District Elementary Educational Officer,
Thanjavur District.
- 2.The Assistant Educational Officer,
Peravoorani at Avanam,
Thanjavur District.
- 3.The Secretary,
Kalaimagal Middle School,
Thuravikadu,
Peravoorani Taluk,
Thanjavur District.

W.P (MD) No.20565 of 2017
18.03.2021

Ak(12/05/2021) 5P 4C