



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:17.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.21220 of 2017

WEB COPY

Jancy Rani

... Petitioner

Vs.

1.State of Tamil Nadu

Through its Secretary to Government,
Department of School Education,
Secretariat,
For St. George,
Chennai-9.

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

3.The District Educational Officer,
Thoothukudi.

4.The Correspondent,
Eka Ratchagar Sabai Higher Secondary School,
Salaipudur,
Asirvathapuram,
Thoothukudi District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to disburse salary to the petitioner working in fourth respondent school for the period from the date of her appointment on 22.01.1998 to the date of her approval on 02.06.2003 and to consider such period for pension purposes.

For Petitioner : Mr.T.A.Ebenezer
For R1 to R3 : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader
For R4 : No appearance

O R D E R

This writ petition is filed for a direction to the respondents to disburse the salary to the petitioner working in fourth respondent school for the period from the date of her appointment on 22.01.1998 to the date of her approval on 02.06.2003 and to consider such period for pension purposes.



2.The case of the petitioner is that she was appointed as Secondary Grade Teacher on 22.01.1998 in the fourth respondent school, which is an aided Christian Minority School receiving regular grant from the Government. Initially, the Government permitted the Aided Schools to appoint B.T Teachers in the Secondary Grade Teacher vacancies, due to the non-availability of the candidates with Diploma in Teachers Education (D.T.Ed) qualification for appointment to the post of Secondary Grade Teachers. Thereafter, when the candidates were available, the Government issued G.O.Ms.No.559, dated 11.07.1995 directing the Educational Authorities not to approve the appointment of B.Ed., Teachers in the Secondary Grade Teacher vacancies. Questioning the said G.O., a batch of writ petitions were filed by various aided schools and the same was dismissed on 19.05.1998. Against which, a batch of Writ Appeals were filed and the same were returned by the Division Bench of this Court on 29.06.2001. Pursuant to which, the Government had issued G.O.Ms.No.155, School Education(D-2) Department, dated 03.10.2002 stating that the B.Ed., Teachers, who were appointed in the Secondary Grade Teacher vacancies to undergo Child Psychology Training for a month and on completion of such training, their services would be approved. After completion of the Child Psychology Training, the petitioner's appointment was not approved. Therefore, the petitioner has made a representation to approve his appointment and accordingly, the third respondent approved his appointment on 02.06.2003. Thereafter, the petitioner has made a representation, dated 02.07.2017 to the fourth respondent to disburse the salary from the date of initial appointment to the date of approval on 02.06.2003, for the purpose of pension. Since no order has been passed, the present writ petition is filed.

3.The learned counsel appearing for the petitioner submitted that this Court may issue a direction to the respondents to consider the petitioner's representation, dated 02.07.2017, within the reasonable time as stipulated by this Court.

4.The learned Additional Government Pleader appearing for the respondents 1 to 3 has no serious objection for considering the petitioner's representation.

5.The grievance of the petitioner is that he was initially appointed in the year 1998, however, his appointment was approved only in the year 2003 and he wants to regularize his service from the year 1998 to till 2003. As per Rule 12(1) of the Pension Rules, a Government servant shall not qualify for pension unless his duties and pay are, regulated by the Government or under conditions determined by the Government. For better appreciation, Rule 12(1) of the Pension Rules, is extracted hereunder:

*"12. Conditions subject to which service qualifies. - (1) The service of a Government servant shall not qualify for **pension** unless his duties and pay*



are , regulated by the Government or under conditions determined by the Government."

6.In the present case, the petitioner's service was regularized only in the year 2003 and claiming benefit from the date of initial appointment is misconceived. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

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

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

3.The District Educational Officer,
Thoothukudi.

+1 CC to M/s.SPL GP (SR-12112[F] dated 18/03/2021)

+3 CC to M/s.T.A.EBENEZER, Advocate (SR-12318[F] dated 18/03/2021)

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KB(17.06.2021) 3P 8C