



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:17.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)Nos.22485 and 22486 of 2017

1.Mercy Thangapappa
2.Priscilla Esther

... Petitioner in W.P(MD)No.22485/17
... Petitioner in W.P(MD)
No.22486/17

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.

... Respondents in both
W.Ps

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to disburse salary to the petitioners working in the fourth respondent's school for the period from the date of the petitioners' appointment on 04.02.1998 and 23.01.1998 to the date of their approval on 02.06.2003 and to consider such period for pension purposes.

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

COMMON ORDER

These writ petitions are filed for a direction to the respondents to disburse the salary to the petitioners working in the fourth respondent's school for the period from the date of their appointment on 04.02.1998 and 23.01.1998 to the date of their



approval on 02.06.2003 and to consider such period for pension purposes.

2.The case of the petitioners are that they were appointed as Secondary Grade Teachers on 04.02.1998 and 23.01.1998 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 Grate Teacher vacancies. Questioning the said G.O., a batch of writ petitions were filed by the 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 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, are directed 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 petitioners' appointments were not approved. Therefore, the petitioners have made a representation to approve their appointments and accordingly, the third respondent approved their appointments on 02.06.2003. Thereafter, the petitioners have 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 petitioners submitted that this Court may issue a direction to the respondents to consider the petitioners' 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 petitioners' representation.

5.The grievance of the petitioners is that they were initially appointed in the year 1998. However, their appointments were approved only in the year 2003 and they want to regularize their 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, <https://hcservices.education.gov.in/hcservices> 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."

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6.In the present case, the petitioners' service was regularized only in the year 2003 and claiming benefit from the date of initial appointment is misconceived. Accordingly, these Writ Petitions are dismissed. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

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.

+1Cc to M/s.SPL GP, SR.No. 12125 dated 18/03/2021

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KB(16.06.2021) 3P 4C