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W.P.Nos.1930 & 1931 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.1930 & 1931 of 2015

and

M.P.Nos.1 & 1 of 2015

W.P.No.1930 of 2015

Mr.S.Selvamurugan

...Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep.by its Secretary to Government,
Education Department,
For St.George, Chennai – 600 009.
- 2.The Director of Elementary School Education,
College Road, Chennai – 600 006.
- 3.The District Elementary Educational Officer,
District Educational Office, Cuddalore.
- 4.The Assistant Elementary Educational Officer,
Kurinjipadi Union,
District Educational Office, Cuddalore.
- 5.The Correspondent,
The Thirumurugan Middle School,
V.Pudukuppam – 607 301,
Anukkampattu Post,
Cuddalore Taluk.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India,

<https://www.mhc.tn.gov.in/judis>



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to issue a writ of Mandamus, to direct the respondents 1 to 4 to pass order on the representation dated 07.1.2015 and to pay the salary for the period from 13.10.1999 to 8.11.2007 to the petitioner and to pay the other benefits namely Selection Grade etc.

W.P.No.1931 of 2015

Mrs.P.Akila

...Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep.by its Secretary to Government,
Education Department,
For St.George, Chennai – 600 009.
- 2.The Director of Elementary School Education,
College Road, Chennai – 600 006.
- 3.The District Elementary Educational Officer,
District Educational Office, Thiruvallur,
Thiruvallur District.
- 4.The Assistant Elementary Educational Officer,
District Educational Office, Puzhal Union,
Thiruvallur District.
- 5.The Administrator & Correspondent,
Maraimalai Adigal Aided Elementary School,
569/266, T.H.Road,
Thiruvottriyur, Chennai – 600 019,
Thiruvallur District.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, to direct the respondents 1 to 4 to pass order on the representation of the petitioner dated 12.01.2015 and to pay the



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salary for the period from 24.12.1997 to 01.06.2003 to the petitioner and to pay the other benefits namely Selection Grade etc.

For Petitioners

[in W.P.No.1930 of 2015] : M/s.T.Dharani

[in W.P.No.1931 of 2015] : Mr.A.S.Mujibur Rahman

For Respondents

: Mr.M.Bindran

[in both W.Ps]

Additional Government Pleader

[For R1 to R5]

Mr.B.Gandhi

[For R6]

COMMON ORDER

The relief sought for in the present writ petitions is to direct the respondents 1 to 4 to pass orders on the representation of the petitioners dated 07.01.2015 and 12.01.2015 respectively and to pay the salary for the period from 13.10.1999 to 8.11.2007 and 24.12.1997 to 01.06.2003 to the petitioners respectively and to pay the other benefits namely Selection Grade etc.

2.The learned counsel appearing on behalf of the writ petitioners state that the writ petitioners were initially appointed as Secondary Grade Teacher.



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3.The grievances of the writ petitioners are that the approval was granted by the authority competent. However, the arrears of salary due to the writ petitioners from the date of their appointment has not been paid. Further, the representation submitted by the writ petitioners were also not considered by the respondents.

4. In this regard, the Hon'ble Division Bench passed orders in W.A.(MD)Nos.74 of 2015 and 957 of 2016 on 21.03.2018. The relevant portion of the Judgment is extracted hereunder:-

“10.The learned counsel for the respondents/writ petitioners relied on certain other orders passed by various Single Benches including one of us (TSSJ) and on perusal of the same, we find that in none of those decisions, the full effect of G.O.Ms.No.155 and the conditions therein have been thoroughly examined. Apart from that, the decision in the case of Pallivasal Primary School has not been specifically noted. Therefore, we are of the considered view, that those decisions cannot be referred to advance the case of the respondents/writ petitioners, though some of them have attained finality. Needless to state that if there has been a wrong decision, it cannot be treated as precedent.

11.In the light of the above reasoning, we are of the considered view that the order passed by the Writ Court



directing disbursement of salary from the date of original appointment, cannot be sustained, in the light of explicit condition imposed in G.O.Ms.No.155, which was upheld by the Division Bench in a Public Interest Litigation. Thus, for the above reasons, the writ appeals filed by the department has to be allowed.

12.The learned counsel for the respondents submitted that though there were about 3000 Teachers who were appointed in such improper manner as of now 300 Teachers would be entitled to monetary benefits and as remaining persons were already paid and they were protected by the Division Bench order from the effect of recovery, the learned counsel submitted that the respondent should be permitted to approach the Government by way of representation.

13.We make no positive observation on this request. But it is always open to the respondents/writ petitioner to approach the Government, if they so desire. For the above reasons the writ appeals are allowed and the impugned orders are set aside and consequently, the writ petitions are dismissed. No costs. Consequently, M.P.(MD)Nos.1 and 2 of 2015 and C.M.P.(MD)No.5749 of 2016 are closed.”

5. In view of the Judgment of the Hon'ble Division Bench, cited *supra*, the cases of the writ petitioners are to be considered with reference to the facts and circumstances. Accordingly, the second respondent is directed



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to consider the cases of the writ petitioners in the light of the judgment, cited supra, and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. The writ petitioners are permitted to submit a fresh representation and all other relevant documents along with the order passed in these writ petitions.

6. Accordingly, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

11.07.2022

Index : Yes
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To

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District Educational Office, Cuddalore.
4. The Assistant Elementary Educational Officer,
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District Educational Office, Cuddalore.



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Thiruvallur District.

6.The Assistant Elementary Educational Officer,
District Educational Office, Puzhal Union,
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S.M.SUBRAMANIAM, J.

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