



WP(MD)Nos.666 and 668 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.12.2022

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THE HON'BLE MR.JUSTICE R.MAHADEVAN

WP(MD)Nos.666 and 668 of 2022

and

WMP(MD)Nos.532 and 534 of 2022

Ida Mano Jebasty
J.Little Gracia

... Petitioner in W.P.(MD).No.666 of 2022
... Petitioner in W.P.(MD).No.668 of 2022

Vs.

1. The Hon'ble Administrators
of Tirunelveli Diocese,
(Appointed by Hon'ble High Court, Madras)
CSI Tirunelveli Diocese,
Tirunelveli - 627 002.
2. The Chief Educational Officer
Tirunelveli District,
Kokkirakulam, Tirunelveli – 627 009.
3. The District Educational Officer,
Tirunelveli Educational District,
Govt. School Campus,
Swamy Nellaiappar Salai,
Tirunelveli Town, Tirunelveli – 627 001.
4. The Manager,
High Schools & Higher Secondary Schools,
CSI Tirunelveli Diocese, Tirunelveli 627 002.
5. The Correspondent,



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Mary Sargent Girls Higher Secondary School,
75 A, Tirunelveli Rd Near Baharat Petroleum,
Palayamkottai, Tirunelveli - 627 002.

... Respondents in both W.Ps

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondent authorities 2 to 5 to comply with the proceedings dated 26.09.2019 passed by the Hon'ble Administrators of Tirunelveli CSI Diocese appointed by this Hon'ble Court and follow the proceedings of the 3rd respondent dated 22.01.2021 and release the salary arrears of the petitioner from 22.07.2017 onwards apart from continuing to pay further salaries to the petitioner within a time to be fixed by this Court.

For Petitioner in
both Writ Petitions : Mr. M.Sudhan

For Respondents in
both Writ Petitions : Mr.Thangasivan for R-1

Mr.S.Shaji Bino,
Special Government Pleader
for R-2 and R-3
Mr.P.P.Alwin Balan
for R-4 and R-5

COMMON ORDER

Since the issue involved in both the writ petitions is one and the same, they are taken up together and are disposed of, by this common order.

2.The prayer made in these writ petitions is to issue a writ of



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mandamus, directing the respondent authorities to comply with the proceedings of the learned Administrators dated 26.09.2019 and also follow the proceedings of the third respondent dated 22.01.2021 and consequently, release the salary arrears from 22.07.2017 onwards, apart from continuing to pay further salary to the petitioners, within a time to be fixed by this court.

3. The brief facts of the case are as follows:

3.1. The petitioner in W.P.(MD)No.666 of 2022 was appointed as B.T.Assistant on 11.06.2007 and the petitioner in W.P.(MD)No.668 of 2022 was appointed as Secondary Grade Teacher on 08.06.2009. While the petitioners were working in the 5th respondent school, by separate orders dated 21.07.2017, they were transferred to St.Andrews School, Kudangulam in the middle of the academic year. Challenging the said orders of transfer, they filed W.P.(MD)Nos.13748 and 13747 of 2017 and on 24.07.2017, this court granted an interim order, directing the respondent authorities not to disturb the petitioners till 01.08.2017. Subsequently, by order dated 01.08.2017, the said interim order was extended until further orders. Pursuant to the same, the petitioners have been regularly attending the school, but they were not allowed to take



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classes and were asked to sign in a separate register. Further, they were not paid salary from 22.07.2017 onwards.

3.2. While so, this court by order dated 05.08.2019 in WP(MD)No. 21134 of 2017 etc. batch, appointed the Hon'ble Mr. Justice N.Paul Vasanthakumar, Chief Justice of Jammu & Kashmir (Retd), and the Hon'ble Mr. Justice P.Jyothimani, High court of Madras (Retd) as administrators for Tirunelveli Diocese, to deal with all complaints and grievances of the employees of the institutions run by Tirunelveli diocese. The said order was also affirmed by a Division Bench of this court by judgment dated 25.02.2020 in WA.(MD)No.878/2019 etc. batch. Accordingly, the petitioners made representations to the learned Administrators. By order dated 26.09.2019, the learned Administrators, after having held that the petitioners are entitled to all salary benefits from 22.07.2017 onwards, permitted them to continue in the 5th respondent school as BT Assistant/Secondary Grade Teacher. However, the fifth respondent did not permit the petitioners to take classes, which compelled the petitioners to again approach the learned Administrators. By order dated 10.03.2020, they directed the police authorities to ensure that the proceedings dated 26.09.2019 was implemented by the fifth



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respondent. Only thereafter, the petitioners were permitted to take classes in the fifth respondent school.

3.3. Subsequently, the fourth respondent by communication dated 19.06.2020, directed the fifth respondent to raise the salary bill and other benefits payable to the petitioners from 22.07.2017 onwards to the third respondent; and that, the third respondent by proceedings dated 22.01.2021 approved / sanctioned the payment of salary with effect from 22.07.2017 onwards. Consequent to the same, the fifth respondent forwarded the service register of the petitioners to the third respondent on 10.02.2021, but, till date, no order has been passed with regard to payment of salary to the petitioners. Therefore, these writ petitions.

4.The learned counsel for the petitioners submitted that the petitioners have been continuously working in the fifth respondent school, with effect from 22.07.2017, on the basis of the orders of this court as well as the learned Administrators appointed by this court. The third respondent has also passed the proceedings dated 22.01.2021 approving / sanctioning the payment of salary benefits to the petitioners. However, nothing progressed and the petitioners have been working



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without any salary till date. Therefore, the learned counsel prayed for appropriate direction to the respondent authorities in this regard.

5. Heard the learned counsel appearing for the respondents and also perused the materials available on record.

6. There is no dispute with regard to the appointment of the petitioners as BT assistant/Secondary Grade Teacher and the approval granted for the same by the Educational authorities. However, on 21.07.2017, they were transferred from the fifth respondent school to St. Andrews School, Kudangulam, which was challenged by the petitioners by filing WP.(MD)Nos.13748 and 13747 of 2017, wherein, this court passed the following order on 24.07.2017:

“The learned counsel appearing for the respondent, after heavy arguments, sought time to file a detailed counter affidavit.

He has also fairly agreed that the teachers who are all transferred will not be disturbed till further orders.

Post on 01.08.2017, along with WP(MD)Nos.13371/2017, 13443/2017 and 8539/2017. Till then, the petitioners need not be disturbed.”

Subsequently, the aforesaid interim order was extended until further orders, on 01.08.2017. Based on the same, the petitioners have been regularly attending the fifth respondent school, but they were not permitted to take classes; they were asked to sign in separate attendance



register and they were not paid salary from 21.07.2017.

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7.It is further seen that on complaint by the petitioners, the learned Administrators appointed by this court, passed a common order on 26.09.2019 in favour of the petitioners, the operative portion of which reads as follows:

“In view of the above said factual position and taking into consideration the order of the High Court, the Administrators are of the considered view that the above petitioners viz. Mrs.Ida Mano Jebasty and Ms.Little Gracia must be permitted to continue in Mary Sargent Girls Higher Secondary School, Palayamkottai in their respective post with salary and other benefits from 22.07.2017 onwards and they must be deemed to have worked legally in the said period in the school for which the Correspondent shall raise the bill to the Educational Authorities for release of salary. The Management shall permit the above said petitioners to take classes with immediate effect.”

Thus, the petitioners are entitled to salary and other benefits with effect from 22.07.2017. Subsequently, the third respondent has also issued the proceedings in Na.Ka.No.3317/A3/2020 dated 22.01.2021, approving / sanctioning the payment of salary to the petitioners from 22.07.2017. Further, the fifth respondent furnished the relevant particulars to the third respondent on 10.02.2021 for releasing the salary along with arrears to the petitioners. Even thereafter, the petitioners were not paid salary and other benefits with effect from 22.07.2017. Such sort of practice adopted



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by the respondent authorities cannot be countenanced by this court.

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8. Therefore, this court directs the respondent authorities to implement the order of the learned Administrators dated 26.09.2019 and follow the proceedings of the third respondent dated 22.01.2021 and thereby release the salary along with arrears with effect from 22.07.2017 immediately, in any event, not later than eight weeks from the date of receipt of a copy of this order.

9. With the above directions, both the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

16.12.2022

Index : Yes/No

Internet : Yes/No

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