



W.P.(MD)Nos.1771 and 1774 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:07.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)Nos.1771 and 1774 of 2020
and
W.M.P(MD)Nos.1492 and 1497 of 2020

Mrs.A.Wilson James ... Petitioner in W.P(MD)No.1771 of 2020
Mr.D.Sekar Franklin ... Petitioner in W.P(MD)No.1774 of 2020
Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Education Department,
Fort St. George, Chennai – 600 009.
- 2.The Director of School Education,
College Road,
Chennai – 600 006.
- 3.The District Educational Officer,
O/o.District Education,
Tirunelveli District – 627 009.
- 4.The Correspondent,
The Christhuraja Higher Secondary School,
No.9H, North High Ground Road,
Palayamkottai,
Tirunelveli District. ... Respondents in both W.Ps.



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Common Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the third respondent in his proceedings Na.Ka.No.5882/Aa5/2019, dated 17.12.2019 and quash the same insofar as the petitioner is concerned and consequently, to direct the respondents to pay the revised salary for the period from 02.06.2003 to till date after deducting the salary already paid to the petitioner.

For Petitioners	: Mr.K.Vadivelu
For R-1 to R-3	: Mr.S.Saji Bino, Special Government Pleader

COMMON ORDER

Since the issue raised in these writ petitions is one and the same, these writ petitions are disposed of by way of this common order.

2. The case of the petitioners is that they were appointed as Secondary Grade Teacher in the year 1997. Subsequently, the said posts were approved by the third respondent vide proceedings, dated 18.08.1997, fixing the time scale of pay of 1200-30-15600-40-2040. Subsequently, the first respondent issued G.O.Ms.No.559 School



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Education Department, dated 11.07.1995, in and by which, the Government banned the appointment of B.Ed./Tamil Pandit in Secondary Grade Teacher Post in Aided Schools. The said Government Order was challenged before this Court wherein this Court granted interim order and on the strength of the interim order granted, the third respondent has approved the appointment made by the management of the minority institutions. Subsequently, the validity of the said G.O., has been upheld by a learned Single Judge of this Court. The same has been confirmed by the Division Bench of this Court with certain directions.

3. Subsequently, the Government had issued G.O.Ms.No.155, dated 03.10.2002. In terms of the said G.O., the petitioners successfully undergone the Child Psychology Training in the year 2003. However, the third respondent has passed an order, dated 02.11.2004, by reducing and refixing the scale of pay from Rs.5375/- to Rs.4500/-. However, the grievance of the petitioners is that they are entitled to salary from the date of initial appointment and insofar as the reduction of pay in the year 2004, the petitioner repeatedly made representations. The request of the



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petitioners was rejected by the third respondent. Challenging the same, the petitioner filed writ petitions in W.P(MD)Nos.5287 & 5288 of 2015, wherein this Court vide its order, dated 21.08.2019, disposed of the writ petitions with a direction to the respondents to re-consider the issue in terms of the decision of the Division Bench in W.A(MD)Nos.74 of 2015 and 957 of 2016, dated 21.03.2018, within a period of twelve weeks. Pursuant to which, the impugned order is passed. Challenging the same, the present writ petitions are filed.

4. The learned counsel appearing for the petitioners would submit that though the petitioners were initially appointed as Secondary Grade Teachers, subsequently, they completed the Child Psychology Training. Therefore, they are entitled to the pay of Rs.5375/- whereas the respondents reduced the salary from Rs.5375/- to Rs.4500/- with effect from 02.06.2003, which is not sustainable one. Therefore, the petitioner continuously approached the respondents for re-fixation of salary from the date of original appointment. The same was not considered so far and hence, prayed for appropriate orders.



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5. The learned Special Government Pleader appearing for the respondents would submit that the petitioners had undergone the “Child Psychology Training” only in the year 2003 and therefore, they became eligible to hold the post of Secondary Grade Teacher only from 02.06.2003 and they are not entitled to salary from their regular appointment. Based on the orders passed in W.P(MD)Nos.5287 and 5288 of 2015, dated 21.08.2019, the representation of the petitioners were received and based on the decision of the Division Bench of this Court reported in 2004-2-LW.591, the request of the petitioners was negated, which is perfectly in order and the same need not be interfered with by this Court and hence, prayed for dismissal of these writ petitions.

6. Heard the learned counsel appearing for the petitioners, the learned Additional Government Pleader appearing for the respondents and perused the materials placed before this Court.

7. Admittedly, the petitioners are degree holders as well as they have completed their B.Ed., Course and they have been appointed as



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Secondary Grade Teachers in the year 1997 in the fourth respondent School and the said appointment was in violation of G.O.Ms.No.559, dated 11.07.1995, which banned the appointment of B.Ed., / Tamil Pandit hand in Secondary Grade Teacher Post in Aided Schools.

8. It is also not in dispute that G.O.Ms.No.559, was challenged before a Single Judge of this Court. The learned Single Judge upheld the validity of the said G.O., and the same was confirmed by the Division Bench of this Court in a batch of writ appeals in W.A.Nos.991-998 of 1998, dated 29.06.2001. Subsequently, the Government issued G.O.Ms.No.155, School Education Department, dated 03.10.2002, ordering the Director of School Education and Director of Elementary Education to take action to give one month short term training on "Child Psychology" to the Graduate Teachers appointed in the Secondary Grade Posts. Wherein in Para 3(iii), it is ordered that as the appointments have been made in contravention of the Government Orders and as the writ petitions and the writ appeals filed have been dismissed by the Division Bench of the Madras High Court, it is not possible to give approval to



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such appointments with effect from the date of appointments and to give salary with effect from that date.

9. The Division Bench of this Court while approving G.O.(Ms)No. 155 School Education (D2) Department, dated 03.10.2002, in a batch of writ appeals in Writ Appeal Nos.249 of 2002 and 80 of 2004, reported in 2004-2-L.W.page 591, observed that the Government have shown great concession to them by allowing them to retain their position even without obtaining the requisite diploma or certificate in Child Psychology by giving them Training in Child Psychology. The Division Bench subsequently, issued a direction to the Government directing to give approval after the date of completion of the Child Psychology Training.

10. In the present case, the petitioners had undergone the Child Psychology Training from 02.05.2003 to 31.05.2003. Hence, they are entitled to receive salary only from the date of completion of the Child Psychology Training in terms of G.O(Ms)No.155, dated 03.10.2002 and therefore, the impugned order cannot be interfered with.



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11. In the result, these writ petitions are dismissed. No Costs.

Consequently, connected miscellaneous petitions are closed.

07.12.2022

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To

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M.DHANDAPANI,J.

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