



W.P(MD)No.2823 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.2823 of 2020
and
W.M.P(MD)No.2388 of 2020

Mrs.A.Suraya Begum

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Education Department,
Fort St. George, Chennai – 600 009.
- 2.The Joint Director of School Education(Secondary Grade),
College Road, Chennai – 600 006.
- 3.The Chief Educational Officer,
Thanjavur Educational District,
Thanjavur District.
- 4.The District Educational Officer,
O/o.District Education,
Kumbakonam,
Thanjavur District.
- 5.The Correspondent,
The Crescent Higher Secondary School,
Aavaniyapuram,
Thanjavur District – 612 104.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the fourth respondent, dated 30.05.2019 in his Na.Ka.No.1458/A4/2015 and quash the same and to direct the respondents to pay the salary for the period from 03.03.1998 to 01.06.2003 to the petitioner and pay the other benefits namely Selection Grade etc.

For Petitioner : Mr.K.Vadivelu

For R-1 to R-4 : Mr.S.Saji Bino,
Special Government Pleader

ORDER

This writ petition has been filed to quash the impugned order passed by the fourth respondent, dated 30.05.2019 in his proceedings in Na.Ka.No. 1458/A4/2015 and to direct the respondents to pay salary to the petitioner for the period from 03.03.1998 to 01.06.2003 and pay the other benefits namely Selection Grade etc.,

2. The case of the petitioner is that he was appointed as Secondary Grade Teacher in the fifth respondent school on 03.03.1998. The Government imposed ban on appointment of Graduate Teachers in Secondary Grade Vacancies vide G.O.Ms.No.559 School Education Department, dated 11.07.1995. Challenging the said G.O., the management of the minority schools and Teachers working in the Secondary Grade Vacancies have



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challenged the above said G.O., before this Court. Based on the interim order

passed by this Court, the third respondent approved the appointment made by the management of the minority Institutions. Thereafter, this Court upheld the validity of G.O.Ms.No.559, dated 11.07.1995 and the same was approved by the Hon'ble Apex Court and thereafter, the Government issued another G.O., in G.O.Ms.No.155 dated 03.10.2002 by issuing certain guidelines for approval of appointment of Graduate Teachers in the secondary grade vacancies. In term of the said G.O., the petitioner completed the Child Psychology Training from 02.05.2003 to 31.05.2002. Thereafter, the fourth respondent vide proceedings, dated 11.08.2003, approved the appointment of the petitioner fixing the scale of pay of the petitioner as Rs.4500-125-7000 from 02.06.2003 subject to certain conditions and thereafter, the petitioner retired from service on 31.05.2012. Subsequently, the petitioner made a representation to the respondents on 17.12.2014 requesting to disburse the salary for the period from the date of initial appointment ie., from 03.03.1998 till the date of approval on 01.06.2003 and the same was not considered. Hence, the petitioner filed a writ petition in W.P(MD)No.4600 of 2015, wherein this Court vide order, dated 26.03.2019, issued a direction to consider the representation of the petitioner and pass orders. Pursuant to the said direction, the impugned order is passed rejecting the request of the petitioner. Challenging the same, the petitioner has filed this



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writ petition with the aforesaid prayer.

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3. The learned counsel appearing for the petitioner would submit that admittedly, the petitioner was appointed on 03.03.1998 as Secondary Grade Teacher with higher qualification. The said Secondary Grade Post was not approved in view of G.O.Ms.No.559, dated 11.07.1995. Thereafter, the Government issued another G.O., in G.O.Ms.No.155 stating that the persons, who were appointed as Secondary Grade Teacher from 11.07.1995 to 19.05.1998 with higher qualification, have to complete the Child Psychology Training. Since the petitioner acquired higher qualification, he had undergone the Child Psychology Training and successfully completed the same and thereafter, his appointment was approved and therefore, the petitioner is entitled for salary from the date of appointment 03.03.1998 till the date of approval on 01.06.2003. However, without considering the same, the fourth respondent has passed the impugned order, which is not sustainable one and the same is liable to be set aside.

4. Per contra, the learned Special Government Pleader appearing for the official respondents, would submit that the petitioner was appointed as Secondary Grade Teacher in the fifth respondent school in the Secondary Grade



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Teacher Vacancy w.e.f 03.03.1998, on the basis of graduate qualification.

While so, the Government imposed ban on appointment of Graduate Teachers in the Secondary Grade Vacancy vide G.O.Ms.No.559, dated 11.07.1995. Some of the aggrieved Teachers filed writ petitions before this Court and consequent to the interim order passed by this Court, the services of the petitioner was approved. Subsequently, in pursuance of the directions issued by this Court, the Government issued detailed guidelines in G.O.Ms.No.155, School Education Department, dated 03.10.2002, for approval of Graduate Teachers in the Secondary Grade vacancies subject to the condition that they should undergo Child Psychology Training at their cost. Further, in terms of G.O.Ms.No.155, dated 03.10.2002, the appointments made by the minority institutions subsequent to 19.05.1998 should not be approved. Moreover, the appointment of the petitioner was approved subject to the condition that regularization of service will be made only after completion of Child Psychology Training. Subsequently, the petitioner underwent training from 02.05.2003 to 31.05.2003 and on completion of the Child Psychology Training, the services of the petitioner was regularized w.e.f 02.06.2003. Therefore, the petitioner is not entitled for salary in the time scale of pay for the period from 03.03.1998 to 31.05.2003 as per the conditions imposed in G.O.Ms.No.155.



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5. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 4 and perused the materials placed before this Court.

6. Admittedly, the petitioner was initially appointed as a Secondary Grade Teacher in the fifth respondent school with higher qualification, which is impermissible in view of G.O.Ms.No.559, dated 11.07.1995. The validity of the said G.O., was upheld by the Division Bench of this Court as well as the Hon'ble Apex Court and the persons, who were appointed with higher qualification, must undergo Child Psychology Training in terms of G.O.Ms.No.155, dated 03.10.2002 and only after completion of Child Psychology Training, they are entitled to get approval. The petitioner underwent the Training from 02.05.2003 to 31.05.2003. Accordingly, the petitioner's appointment was approved and his services were regularized from 02.06.2003. The claim of the petitioner is that he is entitled for salary for the period from 03.03.1998 to 01.06.2003. However, the fact remains that the appointment of the petitioner was made contrary to the Government Orders and the petitioner was not having Training qualification as on the date of appointment and therefore, the claim made by the petitioner is misconceived and therefore, this Court finds no irregularity or infirmity in the order passed by



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the fourth respondent, which does not require interference by this Court.

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7. In the result, this writ petition is dismissed. No Costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Internet: Yes/No
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M.DHANDAPANI, J.

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