



W.A(MD)Nos.654 and 655 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2022

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CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.A(MD)Nos.654 and 655 of 2022
and C.M.P.(MD) Nos.5533 and 5534 of 2022

1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai – 600 009.

2.The Director of School Education,
College Road, Chennai – 600 006.

3.The Chief Educational Officer,
Kanyakumari District at Nagercoil,
Kanyakumari District – 629 001.

4.The District Educational Officer,
Thuckalay – 629 175,
Kanyakumari District.

... Appellants/Respondents 1 to 4
in both the Writ Appeals

Vs.

G.Antony,
Vocational Instructor,
St.Joseph's Higher Secondary School,
Asaripallam – 629 201,
Kanyakumari District.

... 1st Respondent/Writ Petitioner
in W.A.(MD) No.654 of 2022

M.Jelestin Paul Raj,
Head Master,
St.Joseph's Higher Secondary School,
Asaripallam – 629 201,
Kanyakumari District.

in W.A.(MD) No.654 of 2022

The Correspondent,
St.Joseph's Higher Secondary School,



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Asaripallam – 629 201,
Kanyakumari District.

... 2nd Respondents/5th Respondent
in both the Writ Appeals

Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent, praying to set aside the order dated 09.03.2020 in W.P(MD)No. 4357 and 4362 of 2020 and allow these Writ Appeals.

For Appellants : Mr.S.Saji Bino
Special Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by S.S.SUNDAR,J.)

The State has preferred the above Writ Appeals, challenging the common order of learned Single Judge dated 09.03.2020, made in W.P.(MD) Nos.4357 and 4362 of 2020.

2. Heard Mr.S.Saji Bino, learned Special Government Pleader appearing for the appellants.

3. Since the issue involved in these writ appeals are one and the same and the writ appeals arise out of a common order, they are taken up together for disposal.

4. It is admitted that the first respondent in these writ appeals were working as Vocational Instructors in the second respondent's school, which is a recognized and aided minority institution. It is also



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admitted that the first respondent in these writ appeals were appointed as Vocational Instructors on temporary basis. It is stated that they were absorbed as Grade – I and placed under regular time scale of pay. According to the first respondent in these writ appeals, 50% of the period in which they were working as Vocational Instructors on temporary basis should be counted along with regular service for pension as per Rule 11(4) of the Tamil Nadu Pension Rules, 1978. Learned Single Judge of this Court following several judgments of this Court in similar instance allowed the writ petitions and directed the appellants to take into consideration 50% of the past services of the first respondent in these appeals when they were working as part time Vocational Instructors along with their regular service for disbursement of pensionary benefits. Challenging the same, the above appeals are filed.

5. Learned Special Government Pleader appearing for the appellants submits that though the first respondent in these appeals were appointed on regular scale of pay, their service should be taken as regularized only after 31.03.2003 for the reason that the appointment of first respondent in the regular basis was not approved before the cut of date. Learned Special Government Pleader then submitted that there was break in service and therefore, the first respondent in these appeals are not entitled to calculation of 50% of the entire temporary service. It is



not in dispute that the writ petitioners were appointed on regular time scale prior to 31.03.2003. Even if approval was after 31.03.2003, once approval is granted, that relates back to the date of appointment. Hence, we are not impressed by the arguments. However, this issue was not raised by the appellants before the learned Single Judge.

6. From the facts stated in the affidavits filed in support of the writ petitions and the typed set of documents filed in the writ appeals, this Court is unable to consider any break in service as it is not demonstrated before us.

7. Learned Special Government Pleader also raised the issue of delay and laches. The first respondent in these appeals have approached this Court, challenging the orders rejecting the petitions filed by the first respondent in these appeals just prior to their date of superannuation. Hence, this Court is unable to hold that the claim of the first respondent is liable to be rejected on the ground of delay of laches. The same benefit is given to several others who are similarly placed. Hence, the appellants have literally conceded to the prayer before the learned Single Judge.

8. This Court finds no merits in the writ appeals and the same are liable to be dismissed. Accordingly, the Writ Appeals are dismissed.



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No Costs. Consequently, connected Miscellaneous Petitions are also dismissed.

[S.S.S.R.,J] [S.S.Y.,J.]
05.07.2022

Index :Yes/No

Internet :Yes/No

sj

To

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