



W.P.(MD)No.4279 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4279 of 2020

1. B.Vanitha
2. Rajagopal

... Petitioners

Vs.

1. The Secretary,
Government of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai – 600 009.

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

3. The Director of Elementary Education,
School Education Department,
DPI Campus, College Road,
Chennai – 600 006.

... Respondents



W.P.(MD)No.4279 of 2020

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the first respondent herein to regularize the service of the petitioners from their initial dates of appointments till 01.06.2006 with all consequential monetary and service benefits of Teachers in the light of the judgment of this Court in W.P.(MD).No.4991 of 2015 dated 30.07.2019.

For Petitioners : Mr.G.Sivaraja
For Respondents : Mr.T.Amjadkhan
Government Advocate

O R D E R

This Writ Petition has been filed to direct the first respondent herein to regularize the service of the petitioners from their initial dates of appointments till 01.06.2006 with all consequential monetary and service benefits of Teachers in the light of the judgment of this Court in W.P.(MD).No.4991 of 2015, dated 30.07.2019.

2. The learned counsel appearing for the petitioners would submit that the petitioners were appointed to the post of Bachelor of Graduate



W.P.(MD)No.4279 of 2020

WEB COPY

Teachers and Junior Secretary Grade Teachers through Teachers Recruitment Board with effect from 31.01.2005 and 01.09.2005. He further submitted that by way of G.O.(Ms).No.55, dated 02.06.2004, an agreement was executed, stating that the petitioners would not be entitled to regularisation for five years and subsequent thereto, the Government had issued another G.O.(Ms).No.99, dated 27.06.2006, by which, the Government reconsidered the decision of appointing the Teachers on consolidated pay for a period of five years and decided to regularise the services of all the Teachers, who were appointed on consolidated pay vide G.O.(Ms).No.100, School Education (Budget) Department, dated 27.06.2003 by regularising their services with effect from 01.06.2006.

3. It is the grievance of the petitioners that there was no whisper with regard to regularisation of their services between their actual dates of appointments and 01.06.2006 and though they sent several representations to the first respondent through their Association, there was no positive response to the said representations. Aggrieved by the same, the petitioners have filed the present Writ Petition.



W.P.(MD)No.4279 of 2020

WEB COPY

4. Per contra, the learned Government Advocate appearing for the respondents would submit that the issue that arises in the present Writ Petition, is no longer *res integra* and the same was decided by the Hon'ble Division Bench of this Court in W.A.(MD)Nos.299 of 2020 etc., batch, dated 01.06.2021, wherein this Court has held that "*the respondents 1 to 18, having accepted the appointments, joined the post, worked on consolidated wages and having enjoyed the benefit of regularisation granted in 2006, which itself was a big concession granted to them, are wholly estopped from contending that the services rendered by them as Junior Grade Teachers on consolidated pay should also be reckoned for all purposes including monetary benefits*". Accordingly, he declined the relief sought for in the present Writ petition and prayed for the dismissal of this Writ Petition.

5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. The short issue that arises in the present Writ Petition, is whether the petitioners are entitled to be regularised in their services from



W.P.(MD)No.4279 of 2020

the date of initial appointments till 01.06.2006 with consequential monetary benefits. The very same issue came up for consideration before the Hon'ble Division Bench of this Court in W.A.(MD) Nos.299 of 2020 etc., batch, dated 01.06.2021 and the relevant portion of the judgment is extracted hereunder:

"..... 57. In our considered view, the said decision regularising the teachers, who were appointed in the year 1990 can be of no assistance to respondents 1 to 18 herein. The reason being the terms and conditions of their appointment and how they were treated at the first instance. Above all, respondents 1 to 18, having accepted the appointments, joined the post, worked on consolidated wages and having enjoyed the benefit of regularisation granted in 2006, which itself was a big concession granted to them, are wholly estopped from contending that the services rendered by them as Junior Grade Teachers on consolidated pay should also be reckoned for all purposes including monetary benefits. The plea is thoroughly misconceived. Equally the decision in W.P.Nos.21316 and 21317 of 2015 can in no manner advance the case of respondents 1 to 18.

Emphasis added



WEB COPY



W.P.(MD)No.4279 of 2020

58. The learned counsel has placed reliance on the decision in the case of Direct Recruit Class II Engineering Officers Association vs. State of Maharashtra & Ors., [(1990) 2 SCC 715]. This decision can be made applicable to determine the status of a person, who was appointed to a post according to the rule and status of a person, who was appointed on ad hoc basis and not according to rules. In the first category of cases, it has been held that they should be given the benefit of seniority and their period of service shall be counted from the date of their appointment and not from the date of their regularisation or confirmation. This decision cannot be applied to the case of respondents 1 to 18, as they were appointed to a post, which was a post created by downgrading an existing post, given a different nomenclature, viz. Junior Grader Teacher with salary paid on consolidated basis. The terms and conditions of recruitment were made known to all the candidates including respondents 1 to 18. Therefore, they can never raise a plea that their recruitment having been done by TRB, is in accordance with the Rule and therefore, their seniority should be counted from the date of appointment. It may be true that the recruitment was done by the TRB, but it was a special recruitment for a specific purpose to a special category of post with wages on consolidated basis. Therefore, the decision of the Hon-ble Supreme Court



WEB COPY



W.P.(MD)No.4279 of 2020

cannot be applied to the case of respondents 1 to 18.

59. That apart, the belated attempt made by the respondents / writ petitioners is liable to be rejected for several reasons. Firstly, they are estopped from contending contrary to the Government Orders, contrary to the terms and conditions of the Government Orders and contrary to the conditions contained in the agreement to which they have agreed. Secondly, the challenge to the policy decision to downgrade the post to that of the Junior Grade Teacher was rejected and the decision of the Government has been upheld. The request made by some of the teachers to reckon the period of service prior to 01.06.2006 was directed to be considered by the Director of School Education pursuant to an order passed in a writ petition. The representation was considered and rejected and the same has not been challenged and after lapse of nearly fourteen years, suddenly the respondents / writ petitions have come up with this fanciful claim, which is absolutely untenable and unsustainable in law.

60. The present attempt of the respondents / writ petitioners is to march over the regularly promoted PG Assistants, who are only 62 number, whereas the Junior Grade Teachers, like the respondents / writ petitioners are more than 3000. Thus, the relief sought for by the respondents / writ petitioners is misconceived and liable to



WEB COPY



W.P.(MD)No.4279 of 2020

be rejected and accordingly, rejected.

61. In the result, the writ appeals are allowed and the orders and directions issued in the writ petitions are set aside and consequently, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

7. Considering the above submissions and taking into account the ratio laid down by the Hon'ble Division Bench of this Court in W.A.(MD) Nos.299 of 2020 etc., batch, dated 01.06.2021, the prayer sought for in the present Writ Petition cannot be granted and this Writ Petition is liable to be dismissed.

8. Accordingly, this Writ Petition is dismissed. No costs.

08.12.2022

Index : Yes / No

Speaking Order : Yes / No

vji



W.P.(MD)No.4279 of 2020

WEB COPY

To

1. The Secretary,
Government of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai – 600 009.
2. The Director of School Education,
DPI Campus,
College Road,
Chennai – 600 006.
3. The Director of Elementary Education,
School Education Department,
DPI Campus, College Road,
Chennai – 600 006.



WEB COPY



W.P.(MD)No.4279 of 2020

M.DHANDAPANI,J.

vji

W.P.(MD)No.4279 of 2020

08.12.2022