



W.P.(MD)No.5878 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.5878 of 2020

and

W.M.P.(MD)No.5092 of 2020

G.Sudha

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Secretariat, Chennai - 600 009.
2. The Director of School Education,
Directorate of School Education,
College Road,
Chennai - 600 006.
3. The District Educational Officer,
Office of the District Educational Officer,
Karur Post,
Karur District.
4. The Secretary,
Arangasamy Goundar Higher Secondary School,
Nadayanur Post - 659 117,
Pugalur Taluk,
Karur District.

... Respondents



W.P.(MD)No.5878 of 2020

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in pursuant to the impugned order passed by the third respondent in proceedings Na.Ka.No.5785/A4/2019 dated 12.02.2020 (signed on 18.02.2020) and quash the same and consequently, direct the respondents to regularise the services of the petitioner from the date of entry into service, i.e., from 17.03.2004, for the purpose of seniority and to extend all the monetary benefits flowing thereof as per the judgment dated 12.06.2017 in W.P.(MD)Nos.21316 and 21317 of 2017 and judgment dated 30.07.2019 made in W.P.(MD)No.4991 of 2015.

For Petitioner : Mr.M.Saravanakumar
For Respondents : Mr.S.Shaji Bino
Spl. Govt. Pleader for R1 to R3

O R D E R

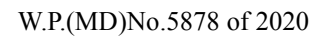
This Writ Petition has been filed to call for the records of the impugned order passed by the third respondent vide proceedings in Na.Ka.No.5785/A4/2019, dated 12.02.2020 (signed on 18.02.2020), quash the same and consequently, direct the respondents to regularise the services of the petitioner from the date of entry into service, i.e., from 17.03.2004, for the purpose of seniority and to extend all the monetary benefits flowing thereof as per the decision in W.P.(MD)Nos.21316 and 21317 of 2017 dated 12.06.2017 and W.P.(MD)No.4991 of 2015 dated 30.07.2019.



W.P.(MD)No.5878 of 2020

WEB COPY

2. The case of the petitioner is that the petitioner was appointed as Junior Grade B.T.Assistant Teacher (Science) in Arangasamy Goundar Higher Secondary School, Nadayanur Post, Pugalur Taluk, Karur District on 17.03.2004 in the sanctioned post on consolidated pay and the same was approved by the third respondent, vide proceedings, dated 30.07.2004. While so, the Government issued G.O.(Ms)No.99, School Education Department, dated 27.06.2006 and decided to bring all Teachers working on consolidated pay either in Government or in Management School in regular time scale of pay with effect from 01.06.2006. As per the said Government Order, the third respondent issued an order vide proceedings, dated 20.11.2006 sanctioning the regular time scale of pay to the petitioner. Thereafter, the petitioner made a representation to the respondents on 12.02.2018 to extend the benefits of the decision made in W.P.(MD)Nos.21316 and 21317 of 2015 to regularise her service from the date of initial appointment for the purpose of seniority and to extend all the monetary benefits. However, the same was not considered. Hence, the petitioner filed a Writ Petition before this Court in W.P.(MD)No.20932 of 2019 with a prayer to direct the



3. The learned counsel appearing for the petitioner would submit the petitioner is entitled to be regularised from the date of entry into service in terms of the decision rendered by this Court in MD)Nos.21316 and 21317 of 2017 dated 12.06.2017. However, that contention was not properly considered by the third respondent, but mechanically rejected the petitioner's representation. Accordingly, he is directed for appropriate orders.



W.P.(MD)No.5878 of 2020

WEB COPY

4. Per contra, the learned Special Government Pleader 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.



W.P.(MD)No.5878 of 2020

WEB COPY

6. The short issue that arises in the present Writ Petition, is whether the petitioner is entitled to be regularised in her services from the date of initial appointment, i.e., from 17.03.2004 till 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



WEB COPY



W.P.(MD)No.5878 of 2020

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.

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.

Emphasis added



W.P.(MD)No.5878 of 2020

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 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 contray 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



W.P.(MD)No.5878 of 2020

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 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.P.(MD)No.5878 of 2020

WEB COPY

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. Consequently, connected Miscellaneous Petition is closed.

14.12.2022

Index : Yes / No

Speaking Order : Yes / No

vji



W.P.(MD)No.5878 of 2020

WEB COPY

To

1. The Secretary to Government,
The State of Tamil Nadu,
School Education Department,
Secretariat, Chennai - 600 009.
2. The Director of School Education,
Directorate of School Education,
College Road,
Chennai - 600 006.
3. The District Educational Officer,
Office of the District Educational Officer,
Karur Post,
Karur District.
4. The Secretary,
Arangasamy Goundar Higher Secondary School,
Nadayanur Post - 659 117,
Pugalur Taluk,
Karur District.



WEB COPY



W.P.(MD)No.5878 of 2020

M.DHANDAPANI, J.

vji

**W.P.(MD)No.5878 of 2020
and
W.M.P.(MD)No.5092 of 2020**

14.12.2022