



W.P.(MD).Nos.12093, 12205, 12264 and 15733 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD).Nos.12093, 12205, 12264 and 15733 of 2022

W.P.(MD).No.12093 of 2022

V.Agnes Shanthi

... Petitioner

Vs.

1.The State Represented by
Secretary to Government,
School Education,
Secretariat,
St.George Fort,
Chennai.

2.The Director of School Education,
DPI Complex,
Nungambakkam,
Chennai – 06.

3.The Chief Education Officer,
Kanyakumari District,
At Nagercoil.

4.The District Education Officer,
having office at Thuckalai,
Kanniyakumari District.

5.The Correspondent,
St.Mary's Higher Secondary School,
Colachal, Kanyakumari District – 629151.

...Respondents



W.P.(MD).Nos.12093, 12205, 12264 and 15733 of 2022

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 24.09.2021 for approval of her appointment as a Secondary Grade Teacher in the 5th respondent school with effect from the date of initial appointment i.e from 11.02.1997 with all service and monetary benefits in the light of the Judgment in W.A.(MD). No.231/2006 (The Secretary to Government of Tamil Nadu, Education Department Vs Suganthi Victoria).

For Petitioner : Mr.K.Samidurai
For R-1 to R-4 : Mr.S.Shaji Bino,
Special Government Pleader.

W.P.(MD).No.12205 of 2022

J.Vijila Shanthi

... Petitioner

Vs.

- 1.The Secretary to Government,
School Education Department,
Government of Tamil Nadu,
Fort St.George,
Chennai.
- 2.The Director of School Education,
Office of Director of School Education,
Chennai – 600 006.
- 3.The District Education Officer,
Nagercoil Education District,
Nagercoil,
Kanyakumari District.



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4.The Correspondent/Secretary,
St.Michael's High School,
Vedhakaranakudiyiruppu,
Nagercoil,
Kanyakumari District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to re-fix the pay scale of the petitioner as Rs.5625 (4500-125-7000) as on 01.10.2004 instead of 4625 (4500-125-7000) and consequently grant annual increments on the re-fixed pay and to grant Selection Grade Scale of pay after 10 years from the date of her appointment i.e., from 01.12.1995, instead 02.06.2003, the date of completion of child psychology training on the basis of the Judgement in S.Karthigairani Vs The State of Tamil Nadu WP.(MD). No.20767 of 2014 dated 27.08.2020 and to grant all consequential benefits to the petitioner.

For Petitioner	: Mr.K.Samidurai
For R-1 to R-3	: Mr.S.Shaji Bino, Special Government Pleader.

W.P.(MD).No.12264 of 2022

A.Mary Vimala Kumari

... Petitioner

Vs.

1.The State Represented by
Secretary to Government,
School Education,
Secretariat, St.George Fort,
Chennai.



W.P.(MD).Nos.12093, 12205, 12264 and 15733 of 2022

2.The Director of School Education,
DPI Complex,
Nungambakkam,
Chennai – 06.

3.The Chief Education Officer,
Kanyakumari District,
At Nagercoil.

4.The District Education Officer,
having office at Thuckalay,
Kanniyakumari District.

5.The Correspondent,
St.Mary's Higher Secondary School,
Colachal,
Kanyakumari District – 629151.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 24.09.2021 for approval of her appointment as a Secondary Grade Teacher in the 5th respondent school with effect from the date of initial appointment i.e from 02.06.1997 with all service and monetary benefits in the light of the judgment in W.A.(MD). No.231/2006 (The Secretary to Government of Tamil Nadu, Education Department vs Suganthi Victoria).

For Petitioner	: Mr.K.Samidurai
For R-1 to R-4	: Mr.S.Shaji Bino, Special Government Pleader.



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W.P.(MD).No.15733 of 2022

A.Mary Angelis

... Petitioner

Vs.

- 1.The Secretary to Government,
School Education Department,
Government of Tamil Nadu,
Fort St.George,
Chennai.
- 2.The Director of School Education,
Office of Director of School Education,
Chennai – 600 006.
- 3.The District Education Officer,
Nagercoil Education District,
Nagercoil,
Kanyakumari District.
- 4.The Correspondent/Secretary,
St.Joseph's Convent Higher Secondary School,
Nagercoil,
Kanyakumari District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to revise the scale of pay of the petitioner from 01.04.2004 (4500-125-7000) by taking into consideration of her last drawn pay of Rs.5500 as on 01.10.2003 and consequently grant annual increments on the re-fixed pay and to grant Selection Grade Scale of pay after 10 years from the date of her appointment i.e., from 01.12.1995, instead of 02.06.2003, the date of completion of child psychology training and to grant all consequential benefits to the petitioner.



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For Petitioner : Mr.K.Samidurai
For R-1 to R-3 : Mr.S.Shaji Bino,
Special Government Pleader.

COMMON ORDER

The issue involved in all these Writ Petitions is as to whether a Secondary Grade Teacher could claim the service and monetary benefits from the date of her initial appointment, when such a teacher had completed her Child Psychology Training after a later date.

2. The Hon'ble Division Bench of this Court, in the case of *the State of Tamil Nadu, represented by its Secretary, Education Department, Chennai and others Vs. Pallivasal Primary School*, passed in *W.A.No.249 of 2002*, dated 02.04.2004, has already dealt with this aspect and had held that such regularization can only be on and after the date, when the teacher completes the Child Psychology Training. However, their past services shall count for the purpose of pension. The relevant portion of the order reads as follows:

“8. Their right to be regarded as persons eligible for confirmation / approval can be said to arise only after they acquired, after their training, a minimum prescribed qualification. The Government here has shown great concession to them by allowing them to retain their



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position even without obtaining the requisite diploma or certificate in child psychology by giving to them training in child psychology. We see nothing wrong in the Government directing that their approval / confirmation can only be on and after the date they complete the training. Their past service however shall count for pension.”

3. Following the decision in ***Pallivasal Primary School's*** case, orders came to be passed by an Hon'ble Division Bench of this Court in the case of ***the Director of Elementary Education, Chennai and others Vs. Sundaravel Raj,*** in ***W.A.(MD).Nos.74 of 2015 and 957 of 2016***, dated 21.03.2018, in the following manner:

*“9.The management of various Schools, which had appointed Teachers like the respondents had challenged the validity of G.O.Ms.No155 dated 03.10.2002 and the matter travelled upto the Division Bench and the Division Bench in the case of ***The State of Tamil Nadu and others v. Pallivasal Primary School*** reported in ***2004-2-L.W. 591*** upheld G.O.Ms.No.155 dated 03.10.2002. The only relief granted to the Teachers, who were appointed in Secondary Grade vacancies, is the grant of salaries, whereby restraining the department from effecting any recovery. Therefore, paragraph No.3(7) of G.O.Ms.No.155 alone was set aside and rest of the Government Order was upheld in the said decision. It was*



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*subsequently ordered that approval/confirmation of the appointment can be only after the date of completion of the child psychology training. Further the Division Bench observed that the past service I.e prior service child psychology training shall count. After the decision rendered in the case of Pallivasal has attained finality, the respondent/writ petitioners seek for salary for the earlier period as well as for other monetary benefits such as increment, selection grade and special grade, etc. We have given our careful consideration. We find in paragraph No.7 of its judgment, the Hon'ble Division Bench has noted the various condition in G.O.Ms.No.155 and held that the respondent therein would be entitled to relief as granted to similarly placed teachers. If that is so, the ultimate conclusion would have been to grant benefit from the date of completion of the child psychology training. However in the penultimate portion of the order her salary has also been included. In our considered view, the direction to pay salary does not corroborate with the observation made by the Division Bench, in the decision in the case Suganthi Victoria. The Government had admitted that at best it can be taken as a decision pertaining to the said case on its factual matrix and that cannot be taken as a precedent. In the case of **Government of Tamil Nadu v. Sri Rao Bahadur AKD Dharmaraja Girls Higher Secondary School** in W.A.(MD)No.3442 of 2002 dated 08.09.2006, the Division Bench, relying on the decision of the case reported in 2002*



Writ L.R. 173, held that the salary can be paid only after completion of the child psychology training and accordingly, allowed the Government appeal.

10.The learned counsel for the respondents/writ petitioners relied on certain other orders passed by various single Benches including one of us (TSSJ) and on perusal of the same, we find that in none of those decisions, the full effect of G.O.Ms.No.155 and the conditions therein have been thoroughly examined. Apart from that, the decision in the case of Pallivasal Primary School has not been specifically noted. Therefore, we are of the considered view, that those decisions cannot be referred to advance the case of the respondents/writ petitioners, though some of them have attained finality. Needless to state that if there has been a wrong decision, it cannot be treated as precedent.”

4. Likewise, the aforesaid decision in ***Pallivasal Primary School's*** case (supra) was followed in the case of ***the State of Tamil Nadu, represented by its Secretary to Government, Education Department, Chennai and others Vs. B.Rajavel and another***, passed in ***W.A.No.1344 of 2014***, dated 07.03.2019 and in the case of ***V.Vasanthi Vs. the State of Tamil Nadu, represented by Secretary, Finance (Pension) Department and others***, passed in ***W.A. (MD).No.307 of 2019***, dated 02.08.2019.



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5. On overall perusal of all the aforesaid decisions of the Hon'ble Division Benches, the legal position remains that a Secondary Grade Teacher can claim the regularization only from the date when she completes the Child Psychology Training and that for the purpose of calculating their pension alone, their past services can be taken into account.

6. In the instant case, the petitioners herein claim that they are entitled for the approval of appointment from the date of their initial appointment. Such a claim is not feasible in view of the well settled decisions of the Hon'ble Division Benches, referred above.

7. Accordingly, the petitioners are granted liberty to make a fresh representation to the respondents, claiming the benefits that may have accrued on their behalf, in the light of the decisions rendered by the Hon'ble Division Benches of this Court and on receipt of such a representation, the concerned respondent shall consider the same and pass appropriate orders, by taking into account the date of their approval from the date on which the petitioners had completed their Child Psychology Training and also by counting their past services for the purpose of calculating the pension. Such orders shall be passed



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at least within a period of eight (8) weeks from the date on which a representation is made.

8. This Writ Petition is disposed of accordingly. There shall be no order as to costs.

22.08.2022

Index : Yes / No
Internet : Yes/ No
Lm

To

- 1.The Secretary to Government,
The State,
School Education,
Secretariat,
St.George Fort,
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M.S.RAMESH, J.

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