



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.19594 of 2019

WEB COPY

Rm.Pushpalatha

... Petitioner

vs.

1.The State of Tamil Nadu
rep.by its Secretary to the Government
Education Department
Fort St.George, Chennai-600 009

2.The Director of Elementary Education
College Road, Chennai-6

3.The Chief Educational Officer
Sivagangai

4.The District Educational Officer
Thiruppathur

5.The Secretary
T.R.V.A.High School
Pattamangalam
Sivagangai District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for entire records connected with the impugned order passed by the fourth respondent in Na.Ka.No.5175/A3/2018, dated 07.11.2018 and quash the same and directing the fourth respondent to regularize the petitioner service at 5th respondent school as Secondary Grade Teacher from her initial date of appointment with effect from 09.07.1997 with all monetary and pensionary benefits.

For Petitioner : Mr.K.K.Kannan

For Respondents : Mr.V.Om Prakash
Government Advocate

O R D E R

The order of rejection, dated 07.11.2018, passed by the fourth respondent, rejecting the claim of the petitioner for
<https://hcservices.ecourts.gov.in/hcservices/>



retrospective regularization of service, is under challenge in this writ petition.

2. The petitioner was appointed as Secondary Grade Teacher in the fourth respondent - School on 09.07.1997 in a sanctioned post and the petitioner states that her appointment was approved by the third respondent vide proceedings dated 10.09.1997. However, the initial appointment of the petitioner of the year 1997 was made on temporary basis. The order dated 10.09.1997, passed by the third respondent clearly states that the petitioner is not entitled for B.T.Assistant salary and also not entitled for incentive increment for possessing higher qualification. This apart, the approval of the year 1997 was granted subject to the final orders to be passed by the Court. Thus, the said approval itself is an interim approval granted during the pendency of some writ petition before this Court. Such a conditional order of approval cannot be construed as a permanent approval and the approval granted subject to the final orders to be passed in the writ petition pending before this Court.

3. Subsequently, the Government issued orders and based on the Government Orders, a regular approval was granted in favour of the petitioner vide proceedings dated 10.10.2003. In the said regular approval order, the time scale of pay is fixed with effect from 02.06.2003 to the petitioner and it is categorically stated in the said order that no other benefits were granted to the post of B.Ed. Assistant. The said order dated 10.10.2003 further states that the petitioner cannot claim any benefit for the service rendered prior to 02.06.2003. The said period will not be taken into consideration for grant of promotion or for fixation of pay or for pensionary benefits.

4. When specific conditions were imposed in the approval order dated 10.10.2003, the petitioner has subsequently filed this writ petition in the year 2019. However, the petitioner has not challenged the said order dated 10.10.2003. After a lapse of many years, the petitioner submitted a representation to the Authority concerned to consider her case for retrospective regularization of her services. Thus, for all purposes, the petitioner accepted the conditions stipulated in the approval order dated 10.10.2003 and thereafter, she cannot turn around and file a writ petition seeking retrospective regularization of her service or other benefits.

5. In view of the fact that the petitioner has not challenged the order dated 10.10.2003, now after a lapse of so many years, the writ petition filed in the year 2019 need not be entertained and as per the conditions stipulated in the regularization order, the petitioner is not entitled for any relief as such sought for in this writ petition.



6. Accordingly, the writ petition fails and it is dismissed. No costs.

Sd/-

Assistant Registrar (A.D.I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

1.The Secretary to the Government,
Education Department,
State of Tamil Nadu,
Fort St.George, Chennai-600 009.

2.The Director of Elementary Education,
College Road, Chennai-6.

3.The Chief Educational Officer,
Sivagangai.

4.The District Educational Officer,
Thiruppathur.

+1 CC to M/s.K.K.KANNAN, Advocate (SR-6613[F] dated 16/02/2022)

+1 CC to M/s.SPL GP (SR-6470[F] dated 16/02/2022)

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RD(28.02.2022) 3P 7C