



W.P.(MD).Nos.13343 and 13344 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 24.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).Nos.13343 and 13344 of 2017
and
W.M.P.(MD).No.10401 of 2017**

W.P.(MD).No.13343 of 2017:

M.Subas Chandra Bose Kumar

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
School Education Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

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

3.The District Elementary Educational Officer,
Karur District,
Karur.

... Respondents



W.P.(MD).Nos.13343 and 13344 of 2017

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the third respondent in Na.Ka.No.5070/A2/2014 dated 19.12.2016, and to Quash the same and consequently direct the respondents to regularize the service of the petitioner in the post of Secondary Grade Teacher with retrospective effect from 29.02.2008 on par with junior appointed, with monetary benefits from the date of actual appointment on 05.12.2008 along with consequential benefits including seniority and arrears of salary with interest within a time frame to be fixed by this Court.

W.P.(MD).No.13344 of 2017:

R.Jeyamani

... Petitioner

Vs.

1.The State of Tamil Nadu,
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(In Both Writ Petitions):

For Petitioner : Mr.G.Sailendrababu,
For Mr.G.Sankaran

For Respondents : Mr.V.Omprakash,
Government Advocate (Civil Side).



W.P.(MD).Nos.13343 and 13344 of 2017

COMMON ORDER

The Writ Petitions have been filed challenging the impugned order dated 19.12.2016 and consequential relief to regularize the service of the petitioners in the post of Secondary Grade Teacher with retrospective effect.

2. The brief facts as stated in the affidavit are that the petitioners were sponsored by the District Employment Office, Karur for appointment to the post of Secondary Grade Teacher on 08.02.2008 based on the seniority and the petitioners were called for certificate verification. Thereafter, the petitioner namely Subas Chandra Bose Kumar was appointed through appointment order dated 03.12.2008 and consequential posting order was also issued on 05.12.2008. The petitioner joined the service on the same date that is on 05.12.2008. But the respondents did not issue the proper appointment order on the ground that the enquiry is pending to find out the genuineness and migration certificate. Therefore, the petitioners filed W.P.(MD).No.2383 and 2414 of 2008, wherein, an interim order was granted to keep one post of Secondary Grade Teacher vacant. Subsequently final order was passed in the



W.P.(MD).Nos.13343 and 13344 of 2017

Writ Petition on 18.03.2008 holding that the petitioners were entitled for appointment and necessary orders to be passed within a month. Before the petitioners were given an appointment orders, the State Government has taken a policy decision to fill up the post of Secondary Grade Teacher following the State Wide Employment Exchange Seniority in pursuant to the order passed in W.A.No.119 of 2008 dated 14.05.2008. In such circumstances, the petitioners were not given appointment, though the petitioners have succeeded in the aforesaid Writ Petitions. Thereafter, the petitioners again filed W.P.(MD).No. 26621 and 26625 of 2008 seeking for appointment order by referring to the entire facts and circumstances, wherein, interim direction was granted on 21.11.2008 to appoint the petitioners as Secondary Grade Teacher in Karur District. However, subsequently final orders passed in the Writ Petitions along with other batch of Writ Petitions on 08.12.2009 dismissing the same on the basis of State Wide Seniority to be followed as per order in W.A.No.119 of 2008. The petitioners preferred W.A.Nos.552 and 569 of 2010 and the same were dismissed on 22.04.2010. Aggrieved over, the petitioners preferred S.L.P before Hon'ble Supreme Court of India in S.L.P.(Civil).Nos.20606 and 20755 of 2010. The Hon'ble Supreme Court vide order dated 05.09.2013 has held that the teachers who were appointed prior to Government Order dated 15.11.2011



W.P.(MD).Nos.13343 and 13344 of 2017

will remain protected and so far the transfers sought by the teachers outside of the Districts are concerned, it is for them to apply to the authority concerned and the authority concerned will consider their applications in accordance with their rules. The contention of the petitioners is that since they were selected and about to be granted appointment order, they are entitled to be considered for appointment, since the Hon'ble Supreme Court has stating the cutoff date is fixed on 15.11.2011, since the petitioners were appointed in the year 2008 itself.

3. The third respondent has filed a counter stating that on 05.12.2008, the petitioner's appointment was made on the basis of the interim order passed in W.P.(MD).Nos.2383 and 2414 of 2008. Subsequently, based on the final order passed in the same Writ Petitions vide order dated 18.03.2008, the petitioners appointment was cancelled on 04.03.2010. Once again they were recruited afresh on 11.08.2014. Now the petitioners' grievances are that their service shall be regularized from the date of their actual original appointment made on 05.12.2008 instead of 11.08.2014, the date of which fresh appointment was made on 11.08.2014.



W.P.(MD).Nos.13343 and 13344 of 2017

4. Heard Mr.G.Sailendrababu, learned counsel for Mr.G.Sankaran, appearing for the petitioner and Mr.V.Omprakash, learned Government Advocate (Civil Side) appearing for the respondents.

5. The only question that arises for consideration is whether the petitioners appointment which was made originally in the year 2008 can be regularized from the year 2008. Initially, the Writ Petitions and Writ Appeals are dismissed which was filed by the petitioners. Finally, the Hon'ble Supreme Court has held that any appointment that was made prior to 15.11.2011 will be protected, since the State Government has issued Government Order by considering statewide seniority from 15.11.2011. Prior to this date, the State Government has considered the District wide Seniority. The petitioners were appointed based on District wide Seniority. Even though the appointment is granted based on the interim order, the judgment rendered by the Hon'ble Supreme Court is in favour of the petitioners, wherein, it is stated any appointment which is made prior to 15.11.2011 were all protected. In such circumstances, the petitioners appointment are protected.



W.P.(MD).Nos.13343 and 13344 of 2017

6. Therefore, the respondents are directed to regularize the petitioners service from the initial date of appointment that is on 05.12.2008. However, it is made clear that the petitioners are entitled only to the service benefits and the petitioners are not entitled to any monetary benefits for the period they were out of employment. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. With the direction the writ petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

24.11.2022

Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

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