



WP.No.21236 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:14.03.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. No.21236 of 2013

M.Vasanth, B.Sc., B.Ed.,
Middle School Headmaster
Hindu Middle School
Shankarapuram – 627 114
Valliyur Union
Tirunelveli District.

... Petitioner

Vs.

1.The State of Tamilnadu
Rep.by the Secretary to Government
Education Department
Chennai – 9.

2.The Director of Elementary Educational Officer
College Road, Chennai – 6.

3.The District Elementary Educational Officer
Tirunelveli – 602 001.

4.The Assistant Elementary Educational Officer
Valliyur, Tirunelveli.

5.The Hindu Middle School

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Rep.by its Secretary
Sankarapuram Post.
Valliyur, Radhapuram Taluk
Tirunelveli District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order passed by the 1st respondent in Letter No.13336/P1/2010-4 dated 08.01.2013 and consequential order of recovery passed by the 4th respondent in Na.Ka.No.132/Aa1/2008 dated 12.06.2013 and quash the same and direct the 1st respondent to pass order of relaxation of 5 years teaching experience to the petitioner as Middle School Headmaster with effect from 02.11.1992.

For Petitioner : Mr.S.N.Ravichandran
For Respondents : Mr.J.C.Durairaj
Addl. Govt. Pleader for RR1 to 4
For R5 – No appearance

ORDER

Aggrieved over the order passed by the 1st respondent in Letter No.13336/P1/2010-4 dated 08.01.2013 and consequential order of recovery passed by the 4th respondent in Na.Ka.No.132/Aa1/2008 dated 12.06.2013, the present Writ Petition has been filed by the petitioner.

2.It is the case of the petitioner herein, who possessed B.Ed



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qualification was selected and appointed as Middle School Headmistress in the 5th respondent School on 02.11.1992 in the sanctioned permanent vacancy. Appointment of the petitioner as the Headmistress is in consonance with G.O.Ms.No.1297 Education Department dated 21.07.1979 and G.O.Ms.No.510, Education (E) Department dated 26.05.1992 and as per the approval of the 4th respondent also, with effect from 02.11.1992. While being so, the 4th respondent vide letter dated 01.07.1998 ordered for recovery of Rs.16,993/- on the ground that the petitioner was wrongly paid salary for the post of Headmaster from 02.11.1992 to 01.11.1997, as she was appointed without five years teaching experience.

3. Aggrieved by the order of recovery, the petitioner has filed W.P.No.13097 of 1998 and this Court by an order dated 18.07.2007, set aside the order of recovery and remanded the matter back to the 4th respondent for fresh consideration. Subsequently, the petitioner made representation dated 25.01.2008 to the 4th respondent, requesting to cancel the audit objection, recommending to deduct Rs.16,993/-. Since no action was forthcoming from the side of the respondents, the petitioner was



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constrained to cause notice of contempt, due to non-compliance of the order passed in W.P.No.13097 of 1998 dated 18.07.2007. After receipt of the contempt notice, the 4th respondent communicated the impugned order, passed by the 1st respondent dated 08.01.2013 and consequential order of recovery passed by the 4th respondent in Na.Ka.No.132/Aa1/2008 dated 12.06.2013. Hence the Writ Petition.

4.Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents 1 to 4.

5.The learned counsel for the petitioner would submit that the Government has issued G.O.Ms.No.31, dated 26.03.2009, granting relaxation of five years teaching experience in respect of nine Middle School Headmasters, who are similarly placed as like that of the petitioner herein. Further the Government has issued another G.O.Ms.(3D).No.17, School Education dated 20.01.2011, granting relaxation of 5 years teaching experience to eighteen other similarly placed Middle School Headmasters. It is also seen that the above mentioned Government Orders came to be passed



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after several Writ Petitions were allowed by the Madurai Bench of this Court and therefore, the same treatment has also be extended to the petitioner herein.

6.Thus, in terms of the Government Order, the Government has accepted the decision of this Court, and the same was confirmed by the Division Bench of this Court in W.A.(MD).No.676 of 2014 dated 25.03.2021, wherein relief was granted to similarly placed persons like that of the petitioner. Therefore, the petitioner is also entitled to be treated on par with other persons, in whose favour the Government Order in G.O.(3D) No.17 dated 20.01.2011 has been passed. Thus, taking note of the above facts, the petitioner is entitled to succeed.

7.Accordingly, the order passed by the 1st respondent in Letter No.13336/P1/2010-4 dated 08.01.2013 and consequential order of recovery passed by the 4th respondent in Na.Ka.No.132/Aa1/2008 dated 12.06.2013 are set aside and the Writ Petition stands allowed. The respondents 1 to 4 are directed to pass an order of relaxation of 5 years teaching experience to



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the petitioner as Middle School Head Master with effect from 02.11.1992.

No costs.

14.03.2023

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To

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State of Tamilnadu
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