



W.P.No.30781 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.30781 of 2019

A. Martin Henry Peter

... Petitioner

Vs.

1.The State
rep.by its Secretary to Government,
Education Department,
Fort St. George,
Chennai – 600 009.

2.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Manjakuppam,
Cuddalore – 607 001.

3.The District Educational Officer,
O/o.The District Educational Officer,
Cuddalore.

4.The Director,
Directorate of School Education,
DPI Campus,
Nungampakkam,
Chennai – 600 009.



W.P.No.30781 of 2019

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5.The Correspondent,
St. Joseph's Hr. Sec. School,
Tirupapuliur,
Cuddalore – 607 002.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the orders passed by the 3rd Respondent in Oh.Mu.No.3934 / A3 / 2019 dated 13.08.2019 and quash the same and consequently direct the Respondent for approval of the appointment of the Petitioner as a Secondary Grade Teacher with effect from 05.12.1996 instead of 01.06.2003 with two increment for his higher educational qualifications (M.A., M.Ed.,) right from appointment date of 05.12.1996 to the date of retirement and salary from appointment date of 05.12.1996 to 01.06.2003 in the Secondary Teacher scale and to pay the arrears and all service monetary benefits.

For Petitioner : Ms.Kanmani Annamalai

For Respondents : Mr.K.H.Ravikumar,
Government Advocate

ORDER

This Writ Petition has been filed to quash the orders passed by the 3rd respondent dated 13.08.2019 and consequently, direct the respondents for approval of the appointment of the petitioner as a Secondary Grade



W.P.No.30781 of 2019

Teacher with effect from 05.12.1996 instead of 01.06.2003 with two increments for his higher educational qualifications (M.A., M.Ed.,) right from appointment date of 05.12.1996 to the date of retirement and the salary from the appointment date of 05.12.1996 to 01.06.2003 in the Secondary Teacher scale and to pay the arrears and all service monetary benefits.

2.The petitioner was probationally appointed on 05.12.1996 as Secondary Grade Teacher with educational qualification of M.A.M.Ed.. by order dated 04.12.1996 in St.Joseph'sHr.Sec. School, Tirupapuliur. Cuddalore. The Headmaster and the Correspondent of St.Joseph's Higher Secondary School sent proposal to approve for appointment as Secondary Grade Teacher from 05.12.1996. The said proposal dated 29.05.1997 to the 3rd respondent was returned for the reason that as per G.O.Ms.559 dated 11.07.1995, the Graduate / Tamil Teacher cannot be appointed as Secondary Grade Teacher.



W.P.No.30781 of 2019

WEB COPY

3.The learned counsel for the petitioner would submit that the 3rd respondent by order dated 27.05.1998 stated that by G.O.Ms.304, School Education(D3) Department, dated 12.09.1997 only the Graduate/Tamil Pandit Teachers till 10.07.1995 can be appointed as Secondary Grade Teachers and hence, the appointment made to the petitioner dated 04.12.1996 cannot be approved. Thereafter, by order dated 12.04.2003, the petitioner undergone Child Psychology Training as the petitioner was appointed between 11.07.1995 and 19.05.1998, by G.O.Ms.No.155 School Education Department dated 03.10.2002, whereby the Graduate Teachers, who had been appointed in the Secondary Grade posts had been directed to undergo Child Psychology Training for a period of one month. After completion of the training, the State Government had been directed to approve the appointment of the Teachers and the petitioner also underwent the training. She would submit that after the completion of the training, the petitioner was approved with effect from 02.06.2003 instead of 05.12.1996 and the petitioner retired from service on 31.05.2019, The Clause 3(i) of G.O.Ms.No.155, School Education Department dated 03.10.2002 granted



W.P.No.30781 of 2019

permission for regularization of secondary grade teachers and B.T. Assistants who came to be appointed between 11.07.1995 and 19.05.1998 and the petitioner was appointed on 05.12.1996 and as per G.O, the petitioner falls within the said benefit granted by the State Government. The petitioner was made to retire from service without approval of service from the initial date of appointment i.e., 05.12.1996 when claims of similarly placed other teachers, who are appointed by the respondent along with the petitioner, have been accepted and their services were regularized. Therefore, the petitioner is entitled for regularization of service from 05.12.1996 and all other terminal benefits have to be calculated as per the regularization. Several representations given by the petitioner was not considered by the Authorities only on the ground that there is no rules to regularize/approve of the petitioner appointment from the date of initial appointment. Thereafter, the petitioner sent a representation dated 07.06.2019 to the 3rd respondent but the same was not considered properly and the 3rd respondent passed the impugned order dated 13.08.2019, hence, this Writ Petition.



W.P.No.30781 of 2019

WEB COPY

4.The learned Government Advocate appearing for the respondents would submit that the 5th respondent is running the Higher Secondary School by name St. Joseph's Higher Secondary School, Tirupapuliyur, at Cuddalore in the capacity of Correspondent. The school is under the management of the Secretary, Arch Diocese of Board of Education, Arch Diocese of Pondicherry and Cuddalore. The school is a minority institution and governed by the Tamil Nadu Recognised Private Schools (Regulations) Act, 1973 and the Tamil Nadu Minority Schools (Regulation and Payment of Grant) Rules, 1977. The said School is having Standards VI to XII with recognition of the Department and receiving grant from the Government for the sanctioned posts of Standards VI to XII. The school is under the control of the 5th respondent. The Petitioner was appointed as a Secondary Grade Teacher with Educational qualification of MA, MEd, by order dated 04.12.1996 by the management of the school. Thereafter, the 5th respondent sent proposal to the 3rd respondent for the approval of the appointment of the petitioner. At that time, there was no provision for the appointment of



W.P.No.30781 of 2019

the graduate teachers in the post of Secondary Grade Teacher, as per G. O. Ms.No.559 Education Department dated 11.07.1995. Therefore, the 3rd respondent had returned the proposal and the provisions for appointment of graduate teachers in the Secondary Grade Teacher post were in force till 10.07.1995, but the petitioner was appointed after that date i.e., on 05.12.1996.

5.Heard the learned counsel appearing on either side and perused the materials available on record.

6.On a perusal of the records, it is seen that the petitioner was probationally appointed on 05.12.1996 as Secondary Grade Teacher with educational qualification of M.A., M.Ed.. by order dated 04.12.1996. Thereafter, the 5th respondent sent proposal to approve for the petitioner appointment as Secondary Grade Teacher from 05.02.1996 to the 3rd respondent which was returned by the 3rd respondent for the reason that as per G.O.Ms.No.559 dated 11.07.1995, the graduate teachers/Tamil Teachers



W.P.No.30781 of 2019

cannot be appointed as Secondary Grade Teacher. G.O.Ms.304, School Education(D3) Department, dated 12.09.1997 only the Graduate/Tamil Pandit Teachers till 10.07.1995 can be appointed as Secondary Grade Teachers and hence, the appointment made to the petitioner dated 04.12.1996 cannot be approved. Thereafter, by order dated 12.04.2003, the petitioner undergone Child Psychology Training as the petitioner was appointed between 11.07.1995 and 19.05.1998, by G.O.Ms.No.155 School Education Department dated 03.10.2002, whereby the Graduate Teachers, who had been appointed in the Secondary Grade posts had been directed to undergo Child Psychology Training for a period of one month. Thereafter, the petitioner was approved with effect from 02.06.2003 instead of 05.12.1996 and the petitioner retired from service on 31.05.2019,

7.The Government issued orders in G.O.Ms.No.155, School Education (D2) Department, dated 03.10.2012 to approve the appointments of the Graduate/Tamil Teachers made in the Secondary Grade posts



W.P.No.30781 of 2019

between the period from 11.07.1995 to 19.05.1998 under the following conditions:

(1) The Graduate / Tamil teachers appointed in the sanctioned Secondary Grade posts should undergo one month training in Child Psychology in the District Institute of Education and Training of the District concerned at their own cost. The teachers concerned should produce the certificate for the completion of such training obtained from the District Institute of Education and Training.

(ii). As the appointment of such teachers were irregular and against the Government orders, and the writ appeals filed by the teachers against the order of the Government were dismissed by the Division Bench of this Hon'ble High Court in W.A.No.991- 998/1998 batch dated 29.06.2001, it is not feasible to approve their appointment and grant the salary of them from the date of their appointment. Their appointment may be approved in the regular time scale of pay from the date of completion of the training as stated above.

(iii) The period of unapproved service rendered by them could not be taken into account for the purpose of promotion, pay fixation and for the calculation of pensionary benefits.

(iv) The Graduate/Tamil Teachers appointed in the Secondary Grade teacher post should be paid the scale of pay applicable to the Secondary Grade teachers. They should not be eligible for any special concessions. The scheme of sanction of incentive increment for acquiring higher qualification should not be applied on their behalf in the period of their service in the Secondary Grade post. As per the Government order stated



W.P.No.30781 of 2019

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supra, the approval of appointment of the petitioner from the date of completion of the Child Psychology Training with effect from 02.06.2003 by the 3rd respondent is quite in order and correct.

Hence, the appointment of the petitioner was only regularised on 02.06.2003 after the completion of the Child Psychology Training. Therefore, the petitioner is entitled to the benefits as per the above said Government Order only from 02.06.2003. Accordingly, this Writ Petition is disposed of. No costs.

15.11.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
mps

To

1.The Secretary to Government,
Education Department,
Fort St. George,
Chennai – 600 009.

2.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Manjakuppam,

10/12



W.P.No.30781 of 2019

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3.The District Educational Officer,
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W.P.No.30781 of 2019

V.BHAVANI SUBBAROYAN, J.

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W.P.No.30781 of 2019

15.11.2023