



W.P Nos. 26568, 26580 & 26587 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2023

CORAM

**THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN**

**WP Nos. 26568, 26580 & 26587 of 2018**

|             |                                         |
|-------------|-----------------------------------------|
| S.Kumaresan | ... Petitioner in W.P.No. 26568 of 2018 |
| A.Susaimary | ... Petitioner in W.P.No. 26580 of 2018 |
| R.Mythili   | ... Petitioner in W.P.No. 26587 of 2018 |

**-Vs-**

1. The State of Tamil Nadu  
Rep. by 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  
Tiruvallur District, Tiruvallur.



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4. The Additional Assistant Elementary Educational Officer,  
Kadambathur Union, Tiruvallur District.

... Respondents in all W.Ps.

**PRAYER IN W.P.No. 26568/2018:** Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the first respondent in Letter No. 32283/Ni.va.2(2)/2016 dated 16.05.2017 and to quash the same and consequently direct the respondents to pass orders to sanction regular time scale of pay in favour of the petitioner in the post of Full Time Craft Instructor from the date of initial appointment till 16.11.1996, on par with other similarly placed persons with all consequential and other attendant benefits.

**PRAYER IN W.P.No. 26580/2018:** Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the first respondent in Letter No. 32283/Ni.va.2(2)/2016 dated 16.05.2017 and to quash the same and consequently direct the respondents to pass orders to sanction regular time scale of pay in favour of the petitioner in the post of Full Time Craft Instructor from the date of initial appointment till 10.02.1989, on par with other similarly placed persons with all consequential and other attendant benefits.



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**PRAYER IN W.P.No. 26587/2018:** Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the first respondent in Letter No. 32283/Ni.va.2(2)/2016 dated 16.05.2017 and to quash the same and consequently direct the respondents to pass orders to sanction regular time scale of pay in favour of the petitioner in the post of Full Time Craft Instructor from the date of initial appointment till 10.02.1989, on par with other similarly placed persons with all consequential and other attendant benefits.

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For Petitioners in  
all W.Ps. : Mr. J.Jayamalan  
for Mr. S.Nedunchezhiyan

For Respondents in  
all W.Ps. : Mr. S.Ravi Kumar  
Special Government Pleader

### **COMMON ORDER**

Since arguments were advanced in common in all the three Writ Petitions and the three petitioners have been placed on the same footing and had also raised the same grievances, a common order is passed.



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2. Let me state the facts in W.P.No. 26568 of 2018. The petitioner therein, S.Kumaresan had qualified in SSLC and in Teacher Training Certificate and was qualified for the appointment to the post of Craft Instructor. He had also registered himself with the Employment Exchange for appointment as Craft Instructor in Government Institutions. By proceedings of the third respondent / the District Elementary Educational Officer, Tiruvallur District, Tiruvallur, dated 10.04.1989, his name was proposed by the District Employment Exchange, Thiruvallur, for appointment to the post of Craft Instructor. He was then appointed as Craft Instructor in Education Department in Thiruvallur District of Kadambathur Union by proceedings of the third respondent dated 11.01.1990 on consolidated pay.

3. The petitioner in W.P.No. 26580 of 2018 A.Susaimary, also had the same qualifications and had also registered herself at the Employment Exchange at Thiruvallur District and was also appointed as Craft Instructor in Educational Department in Thiruvallur District, Kadambathur Union, by proceedings of the third respondent dated 11.01.1990 on consolidated pay.



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4. The petitioner in W.P.No. 26587 of 2018 R.Mythili, also had the same qualifications and had also registered herself at the Employment Exchange at Thiruvallur District and was also appointed as Craft Instructor in Educational Department in Thiruvallur District, Kadambathur Union, by proceedings of the third respondent dated 11.01.1990 on consolidated pay.

5. The grievance of the petitioners were focused on one V.K.Selvam, who had also been appointed as Craft Instructor by the third respondent by proceedings dated 28.03.1990, two months after the petitioners had been so appointed. The selection was based on a proposal forwarded by the third respondent, the District Elementary Educational Officer, Tiruvallur District, Tiruvallur, dated 10.04.1989. He was also, according to the petitioners appointed on consolidated pay. Thereafter, a One Man Committee had been formed to examine the issue relating to Part Time Craft Instructors and Full Time Craft Instructors. In accordance with the recommendations, the Government had passed G.O.Ms.No. 1367 School Education Department dated 05.09.1986. A policy decision had



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been taken to convert the Part Time Craft Instructors to Full Time Craft Instructors in a phased manner, on a stage by stage basis. This was necessary to comply with earlier directions of the Tamil Nadu Administrative Tribunal in O.A.No. 1288 of 1990. A decision was also taken that till all the Part Time Craft Instructors were appointed as Full Time Craft Instructors, there should not be any further fresh employment of Craft Instructors. Thereafter, there was a proposal to make appointments to the post of Special Teachers and this also included Craft Instructors and orders were passed by the State Government in G.O.Ms.No. 5 School Education Department dated 06.01.1997. There was another Government Order passed in G.O.Ms.No. 242, again for School Education Department dated 07.09.2009. Finally, the Government had passed G.O.Ms.No. 336 School Education Department dated 30.12.2009 which is very strongly relied on by the petitioners herein, bringing various Teachers, who have been appointed in various categories and who were functioning on consolidated pay and who had been appointed during the years 1990-1992 into regular time scale of pay from the date of initial employment.



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6. There was yet another Government Order passed in G.O.Ms.No. 279 School Education Department dated 09.04.1996 to bring specialist teachers like Craft Instructors who had been appointed on consolidated pay during the said period into regular time scale of pay with effect from 01.09.1992. Various Teachers including Specialist Teachers, who had been appointed in Panchayat Union and Municipal Schools were brought into regular time scale of pay. The third respondent had apparently forwarded a proposal to the second respondent on 30.09.2012 putting up the case of the petitioners herein and had impressed upon the second respondent that the petitioners could be brought into regular time scale of pay from the date of initial employment. The petitioners further sated that since no action had been taken, they had earlier filed Writ Petitions and a direction was given to consider the representations given to them.

7. At that juncture, the impugned order was passed whereby the primary request of the petitioners to bring them into regular time scale of pay was accepted by the respondents and they were brought into regular



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time scale of pay from the date when they were absorbed as Full Time Craft Instructors by G.O.Ms.No. 752 dated 18.10.1996. The petitioners' grievance is that they should have been brought into regular time scale of pay from the date of initial employment on consolidated pay as Part Time Craft Instructors in Thiruvallur District.

8. The petitioners again focused their grievance on the services of V.K.Selvam, who was so brought in to regular time scale of pay from the date of initial employment and not from the date when his temporary post was recognised as Full Time post. Claiming prejudice in not accepting to their request to be so appointed as full time Craft Instructors from the date of initial appointment, the present Writ Petitions have been filed.

9. Counter affidavits have been filed separately in all the three Writ Petitions. But the same stand have been taken by the respondents.



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10. In the counter affidavits, it had been stated that the petitioners and V.K.Selvam, who was regularised from the date of initial employment, had been appointed under two different procedures. This fact is disputed by the petitioners herein. But that is the stand of the respondents.

11. The respondents claimed that the petitioners had been appointed only on temporary basis on consolidated pay. Thereafter, by G.O.Ms.No. 752 dated 18.10.1996 they had been absorbed as Full Time Craft Instructors and therefore, it had been stated that it is that from which they could be considered as being in regular appointment and not from when they were initially appointed.

12. In the counter affidavit, it had also been stated that though recommendations were made by the third respondent, it had been subsequently withdrawn and the Government had passed G.O.Ms.No. 1367 dated 05.09.1986 to convert the Part Time Craft Instructors into Full Time Instructors on a stage by stage basis and not all at once. It had been stated



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that this was the recommendation of the One Man Commission and this conversion had to be done in phased manner within a reasonable time. Therefore, the claim of the petitioners that they should be regularised as V.K.Selvam from the date of initial appointment was rejected by the respondents.

13. It had also been stated that though the third respondent had forward a proposal on 13.09.2012 stating that the petitioners have been seriously affected, that recommendation was not acted upon by the Government. It had been stated that after the petitioner had filed the earlier Writ Petitions, the claim of the petitioners had been examined. It was stated that based on a letter dated 07.08.2015 by the District Elementary Educational Officer at Thiruvallur, the petitioners were brought into regular service from the date on which they were so recognised as Full Time Craft Instructors. It was also stated that the opinions give by the third respondent had been taken back.



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**14.** With respect to the appointment of V.K.Selvam, it had been stated that he had been appointed as a Full Time Craft Instructor whereas the petitioners were appointed as Part time Craft Instructors. Though his appointment order also termed his appointment to be temporary initially, since there was a vacancy he had been accommodated in that particular vacancy. When the petitioners were appointed, they were accommodated through Employment Exchange on consolidated pay. It had been very specifically stated that inapplicable different Government Orders have been compared by the petitioners herein and that they cannot take advantage of the regularisation of V.K.Selvam from the date on which he had been appointed.

**15.** It had been stated that the Government had passed G.O.Ms.No. 752 Education Science and Technical Department dated 18.10.1996, whereby 88 Part Time handcraft teachers working in Panchayat Union Middle Schools were absorbed on full time basis and 77 full time handcraft teachers and 11 junior full time handcraft teacher and one person working in



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Municipal School in junior full time handcraft teacher had been brought into regular service. The petitioners were also brought into service in the aforementioned Government Order.

16. It had also been stated that there were no vacancy for full time hand craft teacher and therefore, from the general consolidation of the Director, Elementary Education, the Middle Grade Teacher post was changed to Full Time Hand Craft Teacher and the petitioners were brought in to regular scale of pay.

17. The learned counsel for the petitioner placed reliance on the recommendations made by the third respondent and documents to that were also enclosed with the Writ Petitions. It had been stated in the said recommendations that the petitioners suffered as they did not have any promotional aspect or any financial benefit though they had been in service from the year 1990 and till the year 1996. It had therefore been recommended by the third respondent that necessary orders should be issued bringing them into the regular time scale of pay.



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18. The learned counsel for the petitioners placed reliance on G.O.Ms.No. 336, School Education (M1) Department, dated 30.12.2009. In the said Government Order, after examining the directions of the High Court in a batch of Writ Petitions filed by the Secondary Grade Assistants, for being brought into regular pay, the Director of School Education had submitted a proposal to bring all categories of teachers, who had been appointed on consolidated pay during the years 1990-1991 and 1991-1992 to be granted selection and special grade also. It was very specifically stated that the Government had taken a decision to implement the orders of the High Court. It had also been stated that certain categories of teachers appointed on consolidated pay during the year 1990-1991 and 1991-1992 had been paid the differential amount of 1/3<sup>rd</sup> for the period of two years from 1990-1992 and adjusted with accrued arrears payable to the respective teachers. In effect, the order had been passed to bring into permanent time scale of pay teachers in various categories, who had been specifically appointed in the year 1990-1991 and 1991-1992 from the date of initial appointment.



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19. The learned counsel for the petitioner claimed that the petitioners also had been appointed during the said relevant period and therefore claimed that they should also have been brought into regular time scale of pay from the date of their initial appointment.

20. The learned Special Government Pleader appearing for the respondents however contended that bringing the petitioners into regular time scale of pay would depend on the vacancies which were available and contended that as on this date, there is no vacancy. It was also contended that two separate procedures were taken for appointment of the petitioners and the stated V.K.Selvam. It was further stated that therefore, the two appointments could not be looked into on the same ground by this Court. The learned Special Government Pleader also stated that V.K.Selvam had been appointed as Full Time Craft Instructor, whereas the petitioners had been appointed initially as Part Time Craft Instructors. It was therefore stated that there cannot any equalisation of the two posts. It had been stated that the petitioners were actually been brought into regular time scale of pay in the year 1996 and that, the relief sought by them had been granted.



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**21.** I have carefully considered the arguments advanced.

**22.** It is a fact that the three petitioners had been sponsored through the Employment Exchange at Thiruvallur District and had the requisite educational qualification to be appointed as Craft Instructors. It would only be appropriate that there are a number of teachers available for classes which opens up in the initial stages for any student. All the three petitioners herein were appointed on 11.01.1990 by proceedings of the third respondent, which according to the learned counsel for the petitioners confirms was on the basis of applicability of G.O.Ms.No. 366 dated 13.12.2009. All of them were initially appointed only as Part Time Craft Instructors. They were thereafter brought into regular time scale of pay in the year 1996. They claimed that they should have been brought regular in to time scale of pay in the year 1990 when they were initially appointed.

**23.** The petitioners placed reliance on G.O.Ms.No. 336 School Education Department dated 30.12.2009. That particular Government Order



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applies to a situation where the Government had sanctioned additional posts in the cadre of Secondary Grade Assistants B.Ed., Grade Tamil Pandit and Post Graduate Assistants on consolidated pay of Rs.800/- per month. That was by G.O.Ms.No. 1524 Education (M1) Department dated 12.11.1990. Thereafter, by G.O.Ms.No. 1669 Education (M1) Department dated 13.12.1990, the vacant posts of Special Teachers were also downgraded and brought on consolidated scale of pay. The teachers, who had worked on consolidated pay as sought in the cadre of B.T. Assistants and P.G. Assistants. The consolidated pay for Secondary Grade Assistants, (Junior Grade), P.G. Assistants (Junior Grade), B.T. Assistant (Junior Grade) had been fixed and it had been directed that all those, who had been so appointed during the year 1990-1991, 1991-1992 and fixed pay for a period of two years should be brought into regular pay with effect from 01.09.1992.

**24.** The one justifying factor is that the petitioners were not appointed either as the Secondary Grade Assistants or as B.Ed., Grade or as



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Tamil Pandit or as P.G. Assistants. They had been appointed on Part Time basis as Craft Instructors. They therefore stand on a different footing with respect to the Secondary Grade Assistants, who had filed Writ Petitions. Directions were issued by the Court and on consideration of the said directions, the Government had taken a decision that those categories of teachers, who had been so appointed on consolidated pay in the years 1990-1991 and 1991-1992, namely, the Secondary Grade Assistants, B.Ed., Grade, Tamil Pandit and P.G. Assistants, would be regularised from the date of their initial appointment.

25. The one factor which therefore has been taken into consideration is whether the petitioners could claim equal parity with V.K.Selvam mentioned in their affidavit. In the counter affidavits, it had been stated that V.K.Selvam had been appointed as a Full Time Craft Instructor. This fact has been denied by the learned counsel for the petitioners herein. The learned counsel drew attention to the orders of appointment of the petitioners and the order of appointment of V.K.Selvam,



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who had appointed subsequently and stated that the petitioners and V.K.Selvam were appointed on the same basis and therefore, he should not have been treated differently.

**26.** The learned counsel for the respondents further contended that V.K.Selvam had been appointed as Full Time Craft Instructor, whereas the petitioners had been initially appointed only as Part Time Craft Instructors. These are aspects which can be further examined if at all the petitioners had made V.K.Selvam as a respondent in the Writ Petitions.

**27.** These Writ Petitions have been pending from the year 2018 onwards. The petitioners had been sponsored through the Employment Exchange and thereafter, had been so appointed as Part Time Craft Instructor. They had been initially appointed only on consolidated pay. Their services were brought in the regular time scale of pay in the year 1996. The posts were only filled up temporarily subject to probation. The other criteria as laid down by the employer is that the employee would be initially appointed only on temporary basis and then assessed and then



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appointed permanently. Therefore, the orders of initial appointment could not be a proper criteria to compare the petitioners and V.K.Selvam.

**28.** The specific stand of the respondents is that different procedures and different orders were passed so far as the appointment of the petitioners and V.K.Selvam were concerned. It was also very specifically contended that the recommendation of the third respondent were withdrawn and the file itself was closed. It is seen that there was no vacancy at the time when the petitioners were appointed and they were only accommodated as the Part Time Craft Instructor.

**29.** The factors which differentiate the petitioners for applicability of G.O.Ms.No. 336 dated 30.12.2009 are evident since that Government Order applies to Secondary Grade Assistants, B.Ed., Grade, Tamil Pandit and P.G. Assistants. The petitioners having been in service from 1999 must be satisfied with that particular aspect.



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**30.** The learned counsel for the petitioners in the course of his argument also stated that several teachers as Craft Instructor, appointed after the petitioner, were regularised even before the petitioners herein. But details had not been filed by way of either by way of a memo or by way of any additional affidavit.

**31.** On the basis of the available records, I am afraid and the reliefs sought for by the petitioners cannot be granted. Accordingly, the Writ Petitions stand dismissed. No Costs.

vsg

11.09.2023

Index:Yes/No

Neutral Citation:Yes/No

To

1. The Secretary to Government  
The State of Tamil Nadu  
School Education Department  
Secretariat, Fort St. George  
Chennai – 600 009.
2. The Director of Elementary Education  
DPI Campus, College Road,  
Chennai – 600 006.



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3. The District Elementary Educational Officer  
Tiruvallur District, Tiruvallur.
4. The Additional Assistant Elementary Educational Officer,  
Kadambathur Union, Tiruvallur District.

C.V.KARTHIKEYAN,J.



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