

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:12.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)No.779 of 2023 &
W.M.P(MD)Nos.762 & 763 of 2023**

1.A.Immanuel Koilpillai,
Special Educator(Secondary),
Senthilmurugan Government Girls Higher Secondary School,
Thiruchendur,
Thoothukudi District – 628 215.

2.A.Rosalin Indrabai,
Special Education(Secondary),
Government Higher Secondary School,
Sorispuram,
Thoothukudi District – 628 003.

... Petitioners

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Department of School Education,
Fort St. George,
Chennai – 09.

2.The Commissioner of School Education,
Directorate of School Education,
DPI Complex, College Road,
Chennai – 600 006.

3.The State Project Director,
Samagra Shiksha,
DPI Compound, College Road,
Chennai – 600 006.

4.The Chief Educational Officer,
Thoothukudi District,
Seenavana Government Higher Secondary School Campus,
Devarpuram Road, Thoothukudi,
Thoothukudi District – 628 002.

5.The Government of India,
Represented by its Secretary to Government,
Ministry of Human Resource Development,
No.302, Shastri Bhawan,
New Delhi.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Rc.No.5233/B8/IE/SS/2022 dated 28.12.2022 on the file of the third respondent and quash the same as illegal to the extent of changing the Leave Policy for Special Educators(Secondary).

For Petitioners : Mr.S.Louis

For R-1 to R-4 : Mr.T.Amjadkhan
Government Advocate

ORDER

This writ petition has been filed to quash the impugned order passed by the third respondent in Rc.No.5233/B8/IE/SS/2022, dated 28.12.2022, as illegal to the extent of changing the Leave Policy for

Special Educators(Secondary).

2. The case of the petitioners is that the first petitioner is qualified with B.Lit., M.A., in Tamil, TPT(Tamil Pandit Training) and SDTD (Senior Diploma Teaching for Deaf) and he was appointed in the Scheme of Inclusive Education of the Disabled at Secondary Stage (IEDSS) in the year 2011. The second petitioner is qualified with M.Sc., Zoology, B.Ed., and SDTD(Senior Diploma Teaching for the Deaf). The previous Scheme namely Integrated Education of the Disabled Children (IEDC) was started in the year 2000. The Scheme provided for the Education of the children with Special needs from Classes 1st standard to 8th standard. The New Scheme provided for education of the children from 9th standard to 12th standards. In view of the new Scheme, the first petitioner was given appointment in the post of B.T., Special Assistant and the second petitioner was given appointment as per the Old Scheme in the year 2007.

3. The petitioners filed W.P(MD)No.1527 of 2019 praying for regularization in the post of B.T.Assistant as per G.O.Ms.No.28, School Education Department, dated 30.01.2015. This Court vide order dated

23.12.2021 directed the State to frame Rules as envisaged in the above said Government Order within a period of twelve weeks. However, the said order was not implemented. The third respondent issued the impugned communication dated 28.12.2022 with new leave policy for Special Educators(Secondary) with effect from 01.01.2023, in which, there is no medical leave with just three days of restricted holidays in a year and 12 days of casual leave in a year. Further, in the impugned communication quarterly leave and half yearly leave and summer leave is taken away. Hence, challenging the same, the petitioners have filed these writ petitions.

4. The learned counsel appearing for the petitioners would submit that though the petitioners were initially appointed as Resource Teachers and thereafter, the said post is converted as B.T., Assistant and regularization of service of the petitioners in the said post is pending. He would further submit that the new leave policy is contrary to the leave policy applicable to the Government servants, which is not sustainable and prays for allowing of this writ petition.

5. Heard the learned appearing for the petitioners, the learned Government Advocate appearing for the respondents 1 to 4 and perused the materials placed before this Court.

6. Admittedly, the petitioners were initially appointed as Resource Teacher under Samagra Shiksha which is a Scheme introduced by the Central Government. Thereafter, the said post was converted as B.T., Assistant and regularization of the said post is pending till date. The petitioners are working as Resource Teacher for implementation of the Scheme. The leave policy applicable to the Government Servants is not applicable to the petitioners. Therefore, the third respondent introduced a new leave policy for implementation. Hence, this Court cannot interfere with the the same.

7. In the result, this writ petition is dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

12.01.2023

PM

NCC:Yes/No

Index:Yes/No

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