



W.A(MD)No.1057 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A(MD)No.1057 of 2023
and
C.M.P(MD)No.8021 of 2023

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Finance (PGC) Department,
Fort St. George, Chennai-9.
 2. The Government of Tamilnadu,
Rep. by its Secretary,
School Education Department,
Fort St. George, Chennai - 9.
 3. The Director of Elementary Education,
College Road, Chennai -6.
 4. The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
 5. The District Elementary Educational Officer,
(Now the District Education Officer), Tirunelveli District.
 6. The Assistant Elementary Education Officer,
(Now Block Educational Officer), Vasudevanallur Range,
Tirunelveli District.
- ... Appellants

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-VS-

1. Arulchander
2. The Secretary,
Dharulgapuram Elementary School,
Vasudevanallur Range, Tirunelveli District.
3. The Secretary,
AMC Primary School,
Nelakattumsevai,
Pacheri, Sivagiri Taluk,
Tirunelveli District.

... Respondents

PRAYER : Appeal filed under Clause 15 of the Letters Patent, against the order dated 25.07.2022 made in W.P(MD)No.24712 of 2018.

For Appellants : Mr.D.Sadiq Raja
Additional Government Pleader
For R1 : Mr.S.C.Herold Singh

J U D G M E N T

[Judgment of the Court was made by S.S.SUNDAR, J.]

The appellants are respondents 1 to 6 in the writ petition filed by the 1st respondent in W.P(MD)No.24712 of 2018. This appeal is directed against the order of the learned Single Judge dated

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25.07.2022 allowing the writ petition filed by the 1st respondent in W.P(MD)No.24712 of 2018, by directing the 4th appellant to pass appropriate orders approving the 1st respondent's appointment from the date of his initial appointment that is, from 03.03.2003 and to sanction all the monetary benefits.

2. Brief facts that are necessary for disposal of this appeal are as follows:-

The 1st respondent was appointed as a Secondary Grade Teacher on 03.03.2003 in the 2nd respondent school. At the time of appointment, the 1st respondent was holding bachelors degrees in commerce and history. He also completed M.Com in 1994 and acquired thereafter a degree in B.Ed., in 1995. However, the 1st respondent did not have child psychology training certificate. Therefore, the appointment of the 1st respondent was approved on condition that the 1st respondent should complete child psychology training. It is the case of the appellants that the 1st respondent completed the child psychology training only on 22.12.2007 and



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therefore, his appointment could be approved only with effect from 22.12.2007. The 1st respondent therefore filed a writ petition in W.P(MD)No.24712 of 2018 for issuance of a Writ of Mandamus, to direct the appellants to regularise his services as Secondary Grade Teacher from the date of his initial appointment, that is, 03.03.2003. The writ petition was allowed by a learned Single Judge of this Court following the judgment of this Court in **Varadharajan vs Director of School Education and others dated 19.12.2007 in W.P(MD)No. 9072 of 2005**. The learned Judge also took note of the fact that the judgment of the learned Single Judge in W.P(MD)No.9072 of 2005 was confirmed by a Division Bench of this Court. Aggrieved by the order of the learned Single Judge, the above writ appeal is filed.

3. Heard Mr.D.Sadiq Raja, learned Additional Government Pleader appearing for the appellants and Mr.S.C.Herold Singh, learned counsel appearing for the 1st respondent.



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4. Referring to the fact that the 1st respondent completed the child psychology training only on 22.12.2007, learned Additional Government Pleader submitted that the State is not under any legal obligation to pay salary to persons who are not qualified or to persons who had been appointed contrary to the Government Order. Since one month child psychology training is an essential requirement, the 1st respondent is not entitled to claim salary or service benefits with effect from the date of his appointment. It is further stated that the 1st respondent was appointed based on G.O.Ms.No.301, School Education (B1) Department, dated 15.10.1999 which prescribes the qualification by a certificate for undergoing the child psychology training for one month.

5. In view of the admitted facts and sequence of events, this Court is unable to countenance the submission of the learned Additional Government Pleader appearing for the appellants. The 1st respondent/writ petitioner is eligible to be appointed as a Secondary Grade Teacher. He was appointed as Secondary Grade Teacher in the



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2nd respondent school. The 1st respondent belongs to scheduled caste community. In G.O.Ms.No.301, School Education Department, dated 15.10.1999, the Government had an occasion to consider the approval of appointment of Secondary Grade Teachers. In the said G.O., the Government have stated that in the absence of eligible persons belonging to scheduled caste/scheduled tribe community to fill up the post of Secondary Grade Teachers, it can be filled up by eligible Graduate Teachers belonging to scheduled caste/scheduled tribe community who are on the live queue in the employment exchange. Though the 1st respondent was having higher qualification and he was qualified to be appointed as a Graduate Teacher, applying G.O.Ms.No. 301, School Education Department, dated 15.10.1999, he was appointed as there was no sufficient qualified Secondary Grade Teachers belonging to scheduled caste/scheduled tribe community. It is not in dispute that as per G.O.Ms.No.301, School Education Department, dated 15.10.1999, candidates who have completed degree with B.Ed., are also eligible to apply, provided, the candidate obtain a no objection certificate from the District Employment office.



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6. As per G.O.Ms.No.301, School Education Department, dated 15.10.1999, it is necessary that a candidate should have a certificate for undergoing child psychology training for one month. The relevant portion of the said Government Order reads as follows:-

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7. In the appointment order, it is stated as follows:-

"??
?????????.??
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?? ??????.??
03.03.2003 ???.
??"

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??
??
??"



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mandatory that the 1st respondent should possess child psychology training for one month before appointment. The fact that the 1st respondent obtained child psychology training for a period of one month is admitted. It is only a training. The delay occurred purely on account of reasons which are beyond the control of the 1st respondent. This Court finds that the order of the learned Single Judge warrants no interference. This Writ Appeal is devoid of merits and hence, it is dismissed. No costs. Connected miscellaneous petition is closed.

[S.S.S.R, J.] [D.B.C., J.]
14.07.2023

Index : Yes / No
Neutral Citation : Yes / No
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To

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Government of Tamil Nadu,
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Fort St. George, Chennai-9.

2. The Secretary,
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S.S.SUNDAR, J.
and
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JUDGMENT MADE IN
W.A(MD)No.1057 of 2023
DATED : 14.07.2023