



W.P.(MD)No.11896 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.11896 of 2020

K.Balasubramanian

Vs.

... Petitioner

- 1.The State of Tamil Nadu,
Rep.by its Secretary to Government,
School Education Department,
Fort St.George,
Chennai-600 009.
- 2.The Accountant General,
No.361, Anna Salai,
Teynampet,
Chennai-18.
- 3.The Director of School Education,
College Road,
Chennai-600 006.
- 4.The Chief Educational Officer,
Kokkirakulam,
Tirunelveli.



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5.The District Educational Officer,
O/o.The District Education,
Tirunelveli.

6.The Secretary,
The Madurai Diraviyam Thayumanavar Hindu College,
Higher Secondary School,
Tirunelveli-627 001.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 5th respondent dated 18.08.2020, in Oo.Mu.No.2507/A1/2020 and quash the same and to direct the respondents 1 to 5 to issue T.P.F number treating the petitioner comes under the Old Pension Scheme and the General Provident Fund who joined the service on 08.12.1997 and count the past service rendered for the purpose of Pensionary benefits.

For Petitioner : Mr.K.Vadivelu

For Respondent : Mr.S.Saji Bino
Special Government Pleader
for RR1, 3 to 5
Mr.P.Gunasekaran for R2
No-appearance for R6



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ORDER

This writ petition has been filed to call for the records relating to the impugned order passed by the fifth respondent, dated 18.08.2020, in Oo.Mu.No.2507/A1/2020, quash the same and direct the respondents 1 to 5 to issue T.P.F number treating the petitioner who joined the service on 08.12.1997, under the Old Pension Scheme and the General Provident Fund, and count the past service rendered for the purpose of pensionary benefits.

2. The case of the petitioner is that the petitioner was appointed as Secondary Grade Teacher on 06.12.1997 in the 6th respondent School. But the approval was granted only with effect from 02.06.2003, in view of the ban on the appointment of B.Ed., Teachers in the place of Secondary Grade Teachers. The Hon'ble Division Bench of this Court in a batch of writ petitions based on G.O.Ms.No.155, School Education (D2) Department, dated 03.10.2002, has held that the initial appointment date should be taken into account for the purpose of calculating the



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pension. Therefore, the petitioner is entitled to old Pension Scheme and he is not covered under the New Pension Scheme introduced in G.O.Ms.No.259, Finance (Pension) Department, dated 06.08.2003. Hence, the petitioner has made a representation through the Headmaster of the School on 06.08.2020 to transfer him from the CPS Scheme to regular pension Scheme. However, the said representation was rejected on the ground that the petitioner has already filed a writ petition in W.P.(MD).No.1190 of 2020 to pay the salary from the date of initial appointment till the completion of Child Psychology Training (i.e.,) 02.06.2022. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that admittedly, the petitioner was appointed as Secondary Grade Teacher with higher qualification on 06.12.1997. The persons, who were appointed in the post of Secondary Grade Teachers, have to undergo the Child Psychology Training. Accordingly, the petitioner has completed the Child Psychology Training on 31.05.2003. However, the service of the



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petitioner was approved on 02.06.2003 which is not sustainable. The appointment of the petitioner has to be approved from the date of initial appointment and he is entitled to Old Pension Scheme. The service of the petitioner rendered in the sixth respondent School from 08.12.1997 to 01.06.2003 has to be calculated for the purpose of awarding the pension.

4. The learned Special Government Pleader appearing for the respondents 1, 3 to 5 would submit that admittedly, the petitioner was appointed as Secondary Grade Teacher on 06.12.1997 and he has completed Child Psychology Training on 31.05.2003. After completion of the training, his service was approved on 02.06.2003. In fact, the petitioner's service prior to the approval could not be considered as the service, because the Hon'ble Division Bench of this Court in the case of ***State of Tamil Nadu and others vs. Pallivasal Primary School, Rep.by its Correspondent, Mudukulathur***, has held that the B.Ed., Teachers who were appointed in the post of Secondary Grade Teachers are not entitled to salary from the date of their appointments, till their appointments are approved after one month of Child Psychology Training and their past



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service can be considered only for pension purpose. Hence, the petitioner can be considered as employee only from 01.06.2003 and at the relevant point of time, the New Pension Scheme was in force. Therefore, the request of the petitioner to issue T.P.F number treating him under the Old Pension Scheme would not be considered. Hence, there is no illegality or irregularity in passing the rejection order by the fifth respondent.

5. Heard the learned counsel appearing for the petitioner, learned Special Government Pleader appearing for the respondents 1, 3 to 5 and the learned counsel appearing for the second respondent.

6. The facts in the present case are not in dispute. The petitioner was appointed as Secondary Grade Teacher in the sixth respondent School on 06.12.1997 and admittedly, the B.Ed., Teachers, who were appointed in the post of Secondary Grade Teacher, have to undergo child psychology training for a month and on completion of the said training, their services can be approved. Accordingly, the petitioner has completed Child Psychology Training on 31.05.2003 and his service was approved



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on 02.06.2003. Now, he is working as B.T.Assistant.

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7. The issue arising in the present writ petition is no longer *res integra*, since the Hon'ble Division Bench of this Court has held that “the B.Ed., Teachers who were appointed in the post of Secondary Grade Teachers, are not entitled to salary from the date of their appointments, till their appointments are approved after the one month of Child Psychology Training”. Admittedly, the petitioner has completed the Child Psychology Training on 31.05.2003 and his service was approved on 02.06.2003. During the relevant point of time, the New Pension Scheme was in force. Therefore, he has not come under the Old Pension Scheme. Further, the petitioner has already filed a writ petition in W.P(MD).No. 1190 of 2020 claiming pay from 08.12.1997 to 01.06.2003, and the same was dismissed on 29.11.2021 by this Court. Hence, the prayer sought for in the present writ petition by the petitioner cannot be granted.



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8. Accordingly, this Writ Petition is dismissed. No costs.

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ssb

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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M.DHANDAPANI,J.

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