

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2023

CORAM :

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.A(MD)No.317 of 2023
and
CMP(MD)No.3558 of 2023

1. The Principal Secretary,
Finance Department,
Secretariat, Chennai-9.

2. The Principal Secretary,
School Education Department,
Secretariat, Chennai-9.

3. The State Project Director SSA,
DPI Campus, Chennai-6.

4. The Director,
Director of School Education,
DPI Campus, Chennai-6.

5. The Teachers Recruitment Board,
Represented by its Member Secretary,
College Road, Chennai-6.

... Appellants

VS.

1. R.Velsamy

2. N.Manoharan

3. G.Chitra Devi

4. C.Muneeswari

5. M.S.Mathipriya
6. R.Ashok Kumar
7. A.Panchanathan
8. M.Dhandapani
9. T.Chandrasekar

... Respondents

PRAYER : Appeal filed under Clause 15 of Letters Patent, against the order passed in W.P(MD)No.17859 of 2014 dated 22.10.2021.

For Appellants : Mr.D.Sadiq Raja
Additional Government Pleader
For Respondents : Mr.M.Ajmal Khan, Senior Counsel

JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

Challenge in this writ appeal is to the judgment of the Writ Court in and by which, the Writ Court had allowed the writ petition filed by the respondents/writ petitioners seeking a Certiorarified Mandamus to quash the proceedings of the 2nd appellant dated 24.06.2014 and to consequently direct the appellants to fix the salary of the writ petitioners as per the 6th Pay Commission.

2. The grievance of the writ petitioners/respondents herein is that though they were selected as B.T Assistants before 01.06.2009, the appointment orders were issued only on 25.08.2009. Since the delay in issuance of appointment orders is attributable to the administrative action, the writ petitioners would contend that they should be treated on par with persons who were selected along with them and appointed prior to 01.06.2009. If such mode is adopted, the petitioners would be getting the benefit of about Rs.930/- per month in their salaries. The Government resisted the said contention claiming that these persons who were not in service on the crucial date, cannot be treated as persons who were in service in order to give them the benefit.

3. A similar situation arose in the Agricultural Department, wherein, a claim was made by some of the employees who were selected prior to 01.06.2009 and appointed thereafter. The said claim was rejected by the authorities. This led to filing of **W.P(MD)No.7144 of 2014 in G.Muruganantham and ten others vs. The Agricultural Production Commissioner/Principal Secretary of Agriculture and two**

others. The said writ petition was allowed by this Court concluding that they would be entitled to the benefit on the basis of the order made in **W.P.Nos.15375 to 15383 of 2013 dated 03.10.2019 in P.Kalimuthu and others vs. State of Tamil Nadu and others.** Aggrieved, the State preferred writ appeal in W.A.No.1836 of 2021. A Division Bench of this Court by judgment dated 04.08.2021, upheld the conclusion of the learned Single Judge and dismissed the writ appeal. The Division Bench found that the persons who were recruited in one batch though they were appointed a little later, would be entitled to the benefits of salary and other perks as on the date of their selection. In effect, the Division Bench held that the petitioners therein would be treated as having been in employment on 01.06.2009.

4. The Writ Court, in the case on hand, had only followed the dictum of **G.Muruganantham's case**(supra) to conclude that the writ petitioners who are similarly placed persons, would also be entitled to the same benefits. Admittedly, the judgment of the Division Bench in W.A(MD)No.1836 of 2021, dated 04.08.2021, has not been put to challenge and it has become final. We, therefore, see no reason to interfere with the order of the Writ Court.

5. The Writ Appeal fails and accordingly dismissed. No costs. Connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) & (L.VICTORIA GOWRI, J.)
27.03.2023

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Neutral Citation : Yes / No
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