



W.A.(MD) No.1883 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **30.10.2023**

CORAM

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) No.1883 of 2023
and C.M.P.(MD) No.14407 of 2023

Shenbagavalli

... Appellant/Writ Petitioner

-Vs.-

1.The Chief Educational Officer,
Thanjavur.

2.The District Elementary Education Officer,
Thanjavur District,
Thanjavur.

3.The Block Elementary Education Officer,
Kumbakonam,
Thanjavur District.

4.The Headmaster,
Srinagar Colony Government Aided School,
Kumbakonam,
Thanjavur District.

... Respondents/Respondents

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent Act, to
set aside the order dated 24.04.2023 made in W.P.(MD)No.5468 of 2023
on the file of this Court.



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For Appellant : Mr.R.Suriyanarayanan

For Respondents : Mr.S.P.Maharajan,
Special Government Pleader
For R1 to R3

J U D G M E N T

(Judgment of the Court was delivered by **V.LAKSHMINARAYANAN, J.**)

The appellant was appointed as a Secondary Grade Teacher on 22.08.1997 in the fourth respondent school. The appellant was admittedly over qualified to hold the post. She did not obtain the requisite qualification in Child Psychology Training till 03.06.2003. However, calculating 10 years period for selection Grade from the date of appointment i.e., 22.08.1997, the appellant was granted benefit on 11.12.2007. Therefore, the recovery order was passed on 24.02.2023 to recover the excess amount paid from 11.12.2007 to 30.06.2015. This order was challenged before the learned Single Judge and the learned Single Judge has held that the appellant is not entitled for Selection Grade for the period between 11.12.2007 and 01.06.2013 as the appellant has not put in the qualifying service to obtain Selection Grade. Challenging the same, the Writ Appeal has been filed.



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2. As per the order of the Division Bench of this Court in

Secretary & Correspondent Uswathun Hasana Oriental (Arabic) Girls Higher Secondary School Vs. State of Tamil Nadu reported in (2002) ***WLR 173***, the appointments of persons who are over qualified was approved only from the date on which they obtain qualification in Child Psychology Training.

3. The narration of the aforesaid facts would go to show that the appellant obtained the Child Psychology Training qualification only on 02.06.2003 and therefore, she would be entitled to get Selection Grade only from 01.06.2013. However, she had enjoyed the benefits of Selection Grade from 11.12.2007 itself, which is contrary to the position of law laid down by the Division Bench.

4. Learned counsel for the appellant would submit that in any event, she will be entitled to the benefit from 01.06.2013 and therefore, the recovery order passed for the period beyond 01.06.2013 has to be set aside.



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5. A perusal of paragraph No.5 of the order on appeal clearly shows that the learned Single Judge had directed the respondents to confer Selection Grade benefits to the petitioner from 01.06.2013 onwards. In other words, the recover order has been sustained from the period 11.12.2007 to 30.05.2013. Therefore, we do not find any reason to differ from the view taken by the learned Single Judge as he has appreciated the position correctly.

6. Therefore, the Writ Appeal is dismissed. The respondents are directed to re-work the recovery as per paragraph 5 of the learned Single Judge's order. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

[S.M.S.J.,] & [V.L.N.J.,]
30.10.2023

NCC :Yes/No
Index :Yes/No
SJ

To
1.The Chief Educational Officer,
Thanjavur.

2.The District Elementary Education Officer,
Thanjavur District,
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3. The Block Elementary Education Officer,
Kumbakonam,
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S.M.SUBRAMANIAM, J.
AND
V. LAKSHMINARAYANAN, J.

SJ

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