



W.A.(MD)No.1408 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the order	Date of Pronouncing the order
08.02.2023	13.02.2023

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**W.A.(MD)No.1408 of 2014
and
M.P.(MD)No.2 of 2014**

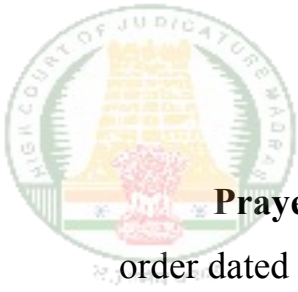
- 1.The Secretary to Education Department,
Government of Tamil Nadu,
Fort St. George,
Chennai – 9.
- 2.The Director of Elementary Education,
College Road, Chennai – 6.
- 3.The District Elementary Educational Officer,
Tanjore District.
- 4.The Additional Assistant Elementary Educational Officer,
Thirupananthal.

... Appellants

vs.

- 1.R.Muthian,
Middle School Headmaster,
Kasthuriba Gandhi Gurukulam,
Tanjore District – 609 804.
- 2.The Secretary,
Kashuriba Gandhi Gurukulam,
Aided Middle School, Dugli,
Thirupananthal, Tanjore – 609 804.

... Respondents



W.A.(MD)No.1408 of 2017

Prayer :- Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 03.04.2014, made in W.P.(MD)No.4319 of 2012.

WEB COPY

For Appellants

: Mr.D.Sadiq Raja

Additional Government Pleader

For 1st Respondent

: Mr.S.N.Ravichandran

For 2nd Respondent

: No Appearance

JUDGMENT

DR.G.JAYACHANDRAN, J.

This Writ Appeal is filed by the State being aggrieved by the order passed by the learned Single Judge in W.P.(MD)No.4319 of 2012, dated 03.04.2014.

2. The first respondent/R.Muthian, Middle School Headmaster, preferred a Writ of Certiorarified Mandamus, to call for the records pertaining to G.O.Ms.No. 832, Education Department, dated 15.09.1992, and quash the same insofar as the condition on fixing his salary at the scale of pay for a period of five years from 15.02.1992 to 14.02.1997 as that of B.Ed. Graduate instead of Middle School Headmaster.

3. The learned Single Judge considering the fact that a similar writ petition was allowed by this Court in **R.Ulaganathan Vs. The Government of Tamil Nadu [W.P.(MD)No.5591 of 2010, dated 07.01.2010]**, following the earlier order of this

Court in W.P.No.20780 of 1992, dated 04.01.1999, allowed the Writ Petition,

<https://www.mhc.tn.gov.in/judis>



directing the Education Department to re-fix the salary of the first respondent in the post of Middle School Headmaster pay scale instead of the post of B.Ed. graduate.

In other words, the Court ordered the deferment of Middle School Headmaster pay scale for a period of five years for want of teaching experience is bad in law and therefore, the first respondent is entitled for the higher pay scale to the Middle School Headmaster from 15.02.1992 to 14.02.1997.

4. Earlier, when the matter came up on 24.02.2020, the following order was passed:-

"Heard the learned counsel for the parties.

2. The issue involved herein is as to whether the first respondent / writ petitioner could be treated as eligible having been appointed as Headmaster, so as to enable him to get the same pay scale as that of a Headmaster even though he was appointed without five years teaching experience.

3. The State contends that the learned Single Judge has committed an error in extending the said benefit, inasmuch as the first respondent / writ petitioner does not possess the five years teaching experience for being appointed as a Headmaster, so as to claim the salary for the period for which the benefit has been extended.

4. The case of the first respondent / writ petitioner is



W.A.(MD)No.1408 of 2017

WEB COPY

that Kasthuriba Gandhi Gurukulam is an Aided Middle School and not High School. The minimum five years of experience is required for the post of Headmaster of a High School and not that of a Middle School.

5. It is further pointed out that the learned Single Judge has allowed the Writ Petition relying upon the judgment, dated 07.01.2010 in W.P.(MD)No.5591 of 2010 (R.Ulaganathan Vs. the Government of Tamil Nadu). The said judgment was affirmed in an appeal by a Division Bench vide judgment, dated 17.10.2014 in M.P.(MD)No.1 of 2013 in W.A.SR.No.89359 of 2013.

6. Apart from this, the learned Single Judge had disposed of the Writ Petition, on a consent of the learned counsel for the parties, as is evident from paragraph No.4 of the impugned judgment.

7. Learned Counsel for the State is not able to place before us the Rules, which may require five years of teaching experience for the post of Headmaster of a Middle School. Learned Counsel for the State prays that the matter be taken up on 26.02.2020 to enable her to assist the Court on this issue.

8. Put up the matter on 26.02.2020."

5. Further, when the matter came up for hearing on 26.02.2020, the learned Government Pleader placed the Notification, dated 20.03.1978. The relevant portion



W.A.(MD)No.1408 of 2017

of the order dated 26.02.2020, reads as below:-

"4. Today, the learned Government Pleader has placed before us the Notification dated 20.03.1978, which reads as under:

"GOVERNMENT OF TAMIL NADU

Abstract

Acts and Rules - Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 -Amendments to Rules relating to qualifications - public

Education Department

G.O.Ms.No.584 Dated: 20th March 1978

G.O.Ms.No.1044, Education dt. 23.6.75

G.O.Ms.No.1118 Education dt. 23.6.1975

From the Director of School Education Letter Rc.No.28900/B7/77 dt. 16.7.77

From the Director of School Education Letter Rc.No.75982/B5/77 dt. 23.4.77 and 26.10.77

From the Director of School Education Letter No.213164/D1/74 dt. 3.10.77

From the Director of School Education Letter No.179284/K1/76 dt. 27.7.77.

ORDER

The following Notification shall be published in the Tamil Nadu Government Gazette.

NOTIFICATION

In exercise of the powers conferred by



WEB COPY



W.A.(MD)No.1408 of 2017

Section 56 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (Tamil Nadu Act 29 of 1974), the Governor of Tamilnadu hereby makes the following amendments to the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974.

AMENDMENTS

In the said Rules, in Annexure V.

(1) under the heading of

"1.Qualification for appointment as Teacher in Private Schools (Regular)

"After item 1. Headmaster (High Schools)" in Col.(1) and the entries relating thereto in Col (2) thereof the following items and entries shall be inserted, namely:-

1-A Headmaster

(Elementary and Middle Schools)

(1) S.S.LC.

(2) T.S.L.C. Of Secondary Grade or its equivalent and

(3) Should have worked as Secondary Grade Teachers in any recognised school for a period of not less than five years after obtaining the TSLC of Secondary Grade or equivalent."



W.A.(MD)No.1408 of 2017

5. *A perusal of the said Notification categorically indicates that the Headmaster of a Middle School as per Clause I-A should have worked as Secondary Grade Teacher in any recognised school for a period of not less than five years after obtaining TSLC of Secondary Grade or equivalent.*

6. *Learned counsel for the first respondent/petitioner contends that the aforesaid Notification does not hold the field, in view of the subsequent Government Orders on which he has not been able to lay his hands as of now."*

6. Again, when the matter came up for hearing today, the learned counsel appearing for the first respondent placed G.O.(3D)No.17, School Education (B1) Department, dated 20.01.2011 and G.O(Ms)No.120, School Education (Ele. Edu. 2(1)) Department, dated 03.07.2015, which have been passed subsequently and orders passed by this Court in similar cases.

7. The learned Additional Government Pleader appearing for the appellants admitted that the Middle School Headmasters, who were similarly placed, initially denied appropriate pay scale for five years for want of teaching experience. Thereafter, they succeeded in the Writ Petitions and Government Orders were passed



W.A.(MD)No.1408 of 2014

to that effect. However, as far as the first respondent is concerned, he has approached the Court belatedly and therefore, the Writ Petition ought to have been disallowed on the ground of laches.

8. This Court is unable to countenance such submission. The grievance of the first respondent is that, for the service rendered by him, he has not been paid appropriate salary, for the simple reason that, he was appointed directly through the Employment Exchange without teaching experience. However, when similarly placed persons were granted appropriate pay, by relaxing the condition, the first respondent cannot be discriminated merely because he has approached the Court belatedly. In fact, he had been representing since 2011 and filed Writ Petition in the year 2012 and succeeded in the year 2014. Since the present Writ Appeal, which is filed in the year 2014, has been pending for nearly 9 years, we cannot attribute delay fully on the part of the first respondent to deprive his lawful right, discriminating him from the similarly placed Middle School Headmasters. Therefore, this Court finds no merit in the Writ Appeal.

9. In fine, this Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SMN2

<https://www.mhc.tn.gov.in/judis>

[G.J., J.] [K.K.R.K., J.]
13.02.2023



W.A.(MD)No.1408 of 2014

DR.G.JAYACHANDRAN, J.
and
K.K.RAMAKRISHNAN, J.

SMN2

PRE-DELIVERY JUDGMENT MADE IN
W.A.(MD)No.1408 of 2014

DATED : 13.02.2023