



W.P.(MD)No.6 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.6 of 2016

M. Lourdu Mary

... Petitioner

Vs.

1. The Secretary to Government,
Department of Elementary Education,
Fort Saint George, Secretariat,
Chennai – 600 009.
2. The Directorate of Elementary Education,
College Road,
Chennai – 6.
3. The District Elementary Educational Officer,
Nagercoil,
Kanyakumari District.
4. The Assistant Educational Officer,
Munchirai,
Kanyakumari District.
5. The Head Master,
Government Middle School,
Kunnathur, Kanyakumari District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, to call for the records relating to the Impugned Order passed by the 3rd Respondent in Na.Ka.No.1493/A3/2009, dated 27.06.2013 and the consequential order passed by the 3rd Respondent in Na.Ka.No. 1493/A3/2009, dated 29.05.2014, quash the same as far as it states that the petitioner is eligible for monetary benefits from 24.01.2011 and consequently direct the Respondents to pay all monetary and other benefits to the petitioner from the date her regularization on 28.07.1979.

For Petitioner : M/s.Shaji Chellan
For Respondents : Mr.V.Omprakash
Government Advocate

ORDER

This writ petition is filed challenging the impugned order, dated 27.06.2013 with the consequential order, dated 29.05.2014, where it is stated that the petitioner is eligible for monetary benefits for a period from 24.01.2011 with consequential direction to the respondents to pay all monetary and other benefits, from the date of regularization, dated 28.07.1979.



W.P.(MD)No.6 of 2016

WEB COPY

2. Heard M/s.Shaji Chellan, learned counsel appearing for the petitioner and Mr.V.Omprakash, learned Government Advocate appearing for the respondents. Perused the material documents available on record.

3. The petitioner was appointed on 28.07.1997 as Secondary Grade Teacher in the 5th respondent government school Kunnathur, Munchirai Saragam, Kanyakumari District on the basis of employment seniority. At the time of appointment, the petitioner was aged about 37 years, however prescribed age is 35 years. Hence in the appointment order itself it is stated that the petitioner is overaged, hence proposal was sent for age relaxation to the Director of School Education, but the same was not forwarded to the government for the reason that the G.O.Ms.No.1196 Education (U1) Department dated 03.12.1992 is not applicable to the petitioner. Hence the CEO had issued show cause notice to terminate the service. The petitioner challenged the same in O.A. No.7569 of 1999 and obtained interim order of stay and based on the stay he was continuing the service. Then the O.A. was transferred and renumbered as W.P.No.45994 of 2006 and the same was allowed on 01.04.2009, wherein it has been held that the



W.P.(MD)No.6 of 2016

WEB COPY

CEO has no jurisdiction to withhold the relaxation proposal and directed to submit the proposal to the government. In turn the government was directed to consider in the light of G.O.Ms.No.1196 Education (U1) Department dated 03.12.1992. The said G.O. was issued to grant age relaxation for the persons who underwent Teacher's Training Course in the State of Karnataka during 1984-1985. The said certificate of the State of Karnataka was evaluated as equivalent to that of the certificate issued by the State of Tamil Nadu. Thereafter the respondents considered the case of the petitioner and had issued G.O.Ms.No.7 School Education Department dated 24.01.2011 and granted age relaxation. But the respondents have regularized the service of the petitioner from the date of joining the service but has granted the monetary benefits only from the date of the government order i.e. from 24.01.2011. Aggrieved over the petitioner submitted a representation dated 20.09.2013 and filed W.P.(MD)No.5894 of 2014 and this Court directed the respondents to consider and pass orders. The respondents have passed the impugned order dated 29.05.2014 and aggrieved over the same the present writ petition is filed.

4. The respondents have filed counter stating that the G.O.Ms.



W.P.(MD)No.6 of 2016

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No.1196, Education Department, dated 03.12.1992 was issued as one time measure by considering the direction passed in the writ petition stated in the said GO. The petitioner was appointed subsequent to the said GO, i.e., from 1997 onwards. Therefore, the said GO is not applicable to the petitioner.

5. On perusing the G.O.Ms.No.1196, it is seen that the said G.O. is passed based on the directions issued by this Court in W.P.(MD)Nos.7286 and 3347 of 1982 and 255 of 1984, dated 28.11.1984 by considering the appointments which were made before 1984. The candidates covered under the said G.O. had earlier failed in the teacher training examination, subsequently, passed the examination in the State of Karnataka and obtained teacher training certificate. Therefore, the Government has issued G.O.Ms.No.1196 granting age relaxation for such persons as a one-time measure.

6. Admittedly the petitioner is not coming within the purview of the said G.O.Ms.No.1196, since the petitioner is appointed in the year 1997 and not before 1984. Moreover, the said G.O. was issued as one time measurement addressing the issue of particular year. Therefore, this Court is of the considered



W.P.(MD)No.6 of 2016

WEB COPY

opinion that the said G.O. is not applicable to the petitioner.

7. The respondents have independently considered the case of the petitioner and has granted age relaxation. But the respondents have granted monetary benefits with effect from 24.01.2011. Hence the question arises when the respondents having granted relaxation of age, whether the respondents is right is fixing the monetary benefits from a later date. It is seen that there is no common G.O. to accept the certificate issued by the State of Karnataka. As and when necessity arises the government has issued government order. Moreover, it is within the domain of policy decision of the government. The monetary benefits would have financial impact on the Government. Therefore, to balance the rights of the petitioner and the government this Court is of the considered opinion that the petitioner is entitled for 50% of the monetary benefits alone. The respondents are directed to pay the same within a period of eight weeks from the date of receipt of the copy of the order.

8. With these observations, this writ petition is partly allowed. No Costs.

Index : Yes / No

05.06.2023



W.P.(MD)No.6 of 2016

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W.P.(MD)No.6 of 2016

S.SRIMATHY, J

ksa

**Order made in
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