



W.P(MD)No.24494 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.24494 of 2023
and
W.M.P(MD)No.20675 of 2023

1.D.Arul Joseph

2.A.Christopher Prasath

3.I.Francis Xavier

... Petitioners

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Finance (Pension) Department,
Fort St. George, Chennai-9.

2.The Director of School Education (Secondary),
Chennai.

3.The Chief Educational Officer,
Madurai, Madurai District.

4.The District Educational Officer (Secondary),
Madurai, Madurai District.

5.The Correspondent,
St. Claret's Higher Secondary School,
Karumathur, Madurai District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to impugned order in Na.Ka.No.479/A4/2014, dated 27.06.2022 of the fourth respondent herein and the impugned order in Na.Ka.No.499/A2/2023, dated 14.09.2023 of the fourth respondent herein and quash the same and consequently direct the respondents herein to place the petitioners herein under old pension scheme by counting the petitioner's service from 03.06.1997 to 01.06.2003 as service period along with attended benefits.

For Petitioners : Mr.T.Pon Ramkumar

For R-1 to R-4 : Mr.V.Om Prakash
Government Advocate

ORDER

The present writ petition has been filed by a Secondary Grade Teachers, who were appointed with B.T Assistant qualification seeking their past services to be counted for pensionary purposes.

2. The petitioners herein were appointed as a Secondary Grade Teachers on 03.06.1997 with B.T Assistant qualification. Since the petitioners have not undergone Child Pshycology Training, their appointment was not approved. The petitioners had completed their Child Phsycology Training only on



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02.06.2003. Thereafter, the approval to their appointment was granted by the authorities with effect from 02.06.2003. Now, the grievance of the petitioners is that the period between 03.06.1997 and 01.06.2003 should be reckoned for the purposes of calculating pension.

3. The learned Counsel appearing for the petitioner had relied upon the judgment of the Hon'ble Division Bench of this Court reported in **2004 (2) LW 591 [The State of Tamil Nadu and Others Vs. Pallivasal Primary School]**.

Paragraph No.8 of the said judgment is extracted as follows:

"8. Their right to be regarded as persons eligible for confirmation / approval can be said to arise only after they acquired, after their training, a minimum prescribed qualification. The Government here has shown great concession to them by allowing them to retain their position even without obtaining the requisite diploma or certificate in child psychology by giving to them training in child psychology. We see nothing wrong in the Government directing that their approval / confirmation can only be on and after the date they complete the training. Their past service however shall count for pension."



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4. As per the Hon'ble Division Bench judgment of this Court, the approval to the appointment of a B.T Assistant Teacher as a Secondary Grade Teacher could be granted only from the date on which they have completed Child Psychology Training. However, their past services can be counted for pension. In the impugned order, the authorities have rejected the request of the petitioners and have held that services would be calculated only from 02.06.2003, the date on which the petitioners had completed Child Psychology Training. In view of the Hon'ble Division Bench judgment, it is clear that the petitioners' past services between 03.06.1997 to 01.06.2003 have to be reckoned for the purposes of pensionary benefits. The petitioners will not be entitled to calculate this period for any other benefit.

5. With the above said observation, this writ petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

06.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR



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R.VIJAYAKUMAR, J.

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