



W.P.No.3047 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.3047 of 2022

and

W.M.P.No.3202 of 2022

1.K.Ezhumalai

2.R.Murali Krishnan

3.D.Biruntha Jothi

4.G.Vanitha Uma Maheswari

5.K.Indirapriyadarisini

6.A.Sathiavathi

7.S.Amuthakalarani

8.K.S.Saravanan

9.S.Mohana Sundari

10.P.Prakasam

11.R.Kiruthiga Rangaraj

12.S.Manjula

...Petitioners

-Vs-



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1. Government of Tamilnadu,
Represented by its Secretary,
School Education Department,
Fort St.George,
Chennai – 600009
2. The Director of School Education,
DPI Campus,
College Road, Chennai – 600 006
3. The Direction of Elementary Education,
School Education,
DPI Campus,
College Road, Chennai – 600 006

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to regularize the services of the petitioners from their initial date of appointments till 01.06.2006 with all consequential monetary and service benefits.

For Petitioners : Mr.S.Mohanavadivelan

For Respondents : Mr.K.H.Ravi Kumar
Government Advocate

ORDER

This Writ Petition has been filed for direction, directing the first respondent to regularize the services of the petitioners from their initial date of appointments till 01.06.2006 with all consequential monetary and service benefits.

2. The petitioners had appeared for the examination under the prospectus



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issued by the Teachers Recruitment Board and were selected, since they were the most meritorious candidates after following the rule of reservation. They are aggrieved by the fact that the post of Secondary Grade Teacher, B.T.Assistant and Physical Education Teacher were downgraded vide G.O.Ms.No.100, dated 27.06.2003 to the post of Junior Grade Secondary Grade Teachers, Junior Grade B.T. Assistants and Junior Grade P.G. Assistants on consolidated salary.

3. All the Secondary Grade Teachers are selected by the District wise employment seniority. So far as the post of Secondary Grade Teachers, B.T. Assistants and P.G. Assistants are concerned, they are comprised in the Tamil Nadu Educational Subordinate Service depending on whether the recruitment is to Higher Secondary school or High School or Panchayat Union School.

4. All the petitioners had been recruited by the direct recruitment. So far as the recruitment is concerned, during the relevant period of time i.e., during the years 2003 – 2004, 2004 – 2005 and 2005 – 2006, the Teachers Recruitment Board had conducted examinations and selected the most meritorious candidates based on reservation.

5. As per G.O.Ms.No.100, dated 27.06.2003, revealed that the vacancies are available on 01.06.2003 in various Panchayat Union Schools, High Schools



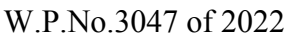
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and Higher Secondary Schools had been downgraded and re-designated as Junior Grade Secondary Grade Teacher, Junior Grade B.T. Assistant and Junior Grade P.G. Assistant on consolidated pay.

6. Subsequent to the said order, the Government issued another G.O.Ms.No.55, dated 02.06.2004, whereby, an agreement was executed that the petitioners would not be eligible for regularization for a period of five years. As per G.O.Ms.No.99, dated 27.06.2006, that the decision of appointing the teachers on consolidated pay had been regularised with effect from 01.06.2006.

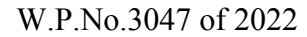
7. Therefore, the grievances of the petitioners are that, the period from the date of the appointment to 01.06.2006 had not been regularised till date, even after submitting several representations. They are also claiming that similarly placed persons moved a Writ Petition before this Court in W.P.No.4991 of 2015 and this Court had allowed the Writ Petition.

8. Heard the learned counsel on either side and perused all the available records.



10. It is relevant to extract the order passed in the Rev.Appln.No.60 of 2020, dated 17.08.2021, is as follows :

“27. The initial appointments of the writ petitioners were based on Government Orders that were issued to fill up the vacancies in various categories of teachers on consolidated pay during the ban on recruitment was force in the State. They had discharged their duties as Junior Grade Employees. After they were absorbed into service on 01.06.2006 inclusion of their names in the seniority list would only deprive the promotees (Review Petitioners and other similarly placed teachers) the legitimate seniority to which they are entitled to.



31. When the absorption of the writ petitioners were during 2006, as per G.O.Ms.No.120, the writ petitioners had, in fact, knocked at the doors of this Court only in the year 2014, after inordinate delay and there is no explanation/reason for the delay and laches on their part. Even assuming that the writ petitioners moved the Court only after the non-inclusion of their name in the promotion panel, the said approach cannot



be appreciated by this Court, for the simple reasons that they had accepted the terms and conditions of all those Government Orders and after such inordinate delay, they cannot seek any relief which is in contravention to the terms of those Government Orders. Undoubtedly, the delay on the part of the writ petitioners would disentitle them from the relief sought by them.

32. The said principle was re-emphasised by the Hon'ble Supreme Court in **S.S.Balu v. State of Kerala, (2009) 2 SCC 479**, in the following terms :

'17. It is also well-settled principle of law that 'delay defeats equity'. The Government Order was issued on 15-1-2002. The appellants did not file any writ application questioning the legality and validity thereof. Only after the writ petitions filed by others were allowed and the State of Kerala preferred an appeal thereagainst, they impleaded themselves as party-respondents. It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment. It is, thus, not possible for us to issue any direction to the State of Kerala or the Commission to appoint the appellants at this stage.'

33. The Hon'ble Supreme Court in **Ghulam Rasool Lone v. State of J&K, (2009) 15 SCC 321**, observed as follows :

'19. It is beyond any cavil of doubt that the remedy under Article 226 of the Constitution of India is a discretionary one. For sufficient or cogent reasons a court may in a given case refuse to exercise its jurisdiction; delay and laches being one of them. While considering the question of delay and laches on the part of the petitioner, the court must also consider the effect thereof.'



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34. *It is also brought to the notice of this Court that in view of the pendency of the writ petitions, writ appeals and the review application, the promotion panel, which was drawn on 16.11.2019 is kept pending without any progress.*

35. *The First Bench, also had passed a reasoned order on 01.09.2020 to admit the review application. In view of the discussions made hereinabove, the Review petition No.60 of 2020 and W.A.No.723 of 2020 filed by the third parties, whose rights are affected by the said order, are allowed and consequently, the order dated 13.01.2020 passed in W.A.No.3904 of 2019 is recalled. As a natural corollary, the order passed by the writ Court dated 30.07.2019 in W.P.No.4991 of 2015 is set aside and the writ petition is dismissed.*

36. *In view of the orders passed by us in the instant review petition, the writ appeals filed by the Government in W.A.Nos.245, 246 and 462 of 2020 are also allowed and the respective orders passed by the learned Single Judges, which were impugned therein, are also set aside and those writ petitions are dismissed.*

37. *It is also made clear that any order passed by this Court placing reliance on the judgment dated 13.01.2020 in W.A.No.3904 of 2019 and the order dated 30.07.2019 in W.P.No.4991 of 2015 cannot be given effect to, in view of the order passed in the review petition recalling the order dated 13.01.2020.”*

11. Thus, it is clear that the Hon'ble Division Bench of this Court specifically observed that the order passed in W.P.No.4991 of 2015 cannot be given effect to, in view of the order passed in the Review petition.



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12. In view of the above, the prayer sought for in this Writ Petition to regularise the services of the petitioners from the date of initial appointment cannot be considered and the Writ Petition is devoid of merits and is liable to be dismissed. Accordingly, this Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

02.02.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
mkn2

G.K.ILANTHIRAIYAN. J,

mkn2

To

1.The Secretary,
School Education Department,
Fort St.George,
Chennai – 600009



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2.The Director of School Education,
DPI Campus,
College Road, Chennai – 600 006

3.The Direction of Elementary Education,
School Education,
DPI Campus,
College Road, Chennai – 600 006

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