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W.P.No.22375 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

CORAM:

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

**W.P.No.22375 of 2014**

K.Kanakabai

...Petitioner

Vs

1. The Government Of Tamilnadu  
Rep. by the secretary to the Government,  
School Education Department,  
Fort St. George, Chennai – 600009
2. The District Elementary Educational Officer,  
Nagercoil, Kanyakumari District

...Respondents

**Prayer:-** Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus, to call for the records relating to the impugned order of the first respondent in G.O.(2D) No.1 School Education Department dated 02.01.2014 and quash the same in so far as it restricts monetary benefits from the date of issue of the impugned order and direct the respondents to grant monetary benefits to the petitioner from the date of regularization of her service namely, 28.07.1997.



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For petitioner : No appearance  
For R1 and R2 : Mr.V.M.Sreenithi  
For Mr.AGAM Legal  
For R3 : Labour Court

### **ORDER**

This writ petition is filed seeking for a certiorarified mandamus to quash the impugned G.O.(2D) No.1 School Education Department dated 02.01.2014 insofar as restricting the monetary benefits from the date of issue of the impugned order and for directing the respondents to grant monetary benefits to the petitioner from the date of regularization of her service namely, 28.07.1997.

2. The petitioner was initially appointed as a Senior Grade Teacher in the year 28.07.1997 on the basis of the seniority maintained in the employment exchange. In the appointment order it was specifically mentioned that the petitioner was over aged at the time of appointment and proposals for relaxation of age were sent to the Government and the Government issued a G.O.Ms.No.1196 Education Department dated 03.12.1992 and ordered that evaluation of Karnataka Trained Teachers



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Certificate shall be obtained for the academic year 1984-85, i.e., after 17.09.1984. The Government questioned the relaxation of age in respect of candidates whose certificates were ordered to be evaluated and the same was forwarded to the Chief Educational Officer, Nagercoil. The Director of School Education refused to forward the same to the Government stating that he had passed an order not to extend the benefits of age relaxation. Based on the said order the Chief Educational Officer, Nagercoil, issued notice as to why the petitioner's service should not be terminated.

3. The petitioner that the petitioner approached Tamil Nadu Administrative Tribunal and a stay was granted and the same was transferred to this Court in W.P.No.4077 of 2006 and the petitioner continued in service on account of the stay orders. The Government Order passed by the Chief Educational Officer, Nagercoil, was set aside by this Court directing the Director of School Education to send the proposals of relaxation of age to the Government, as the petitioner was holding this post since 1997 within a period of four weeks from the date of the order and directed to consider the same in accordance with the G.O.Ms.No.1196, Education Department dated 03.12.1992.



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Accordingly, the Government of Tamil Nadu issued orders in G.O.(2D) No.1 School Education Department, dated 02.01.2014 relaxing Rule 8 of the Special Rules for the Tamil Nadu Elementary Education Subordinate service in the petitioner's favour and directed regularization of services of the petitioner w.e.f. the date of initial appointment with monetary benefits from the date of issuance of the Government Order, i.e., 02.01.2014.

4. It is submitted by the learned counsel for the petitioner that though the petitioner was working from 28.07.1997, the regularization and monetary benefits were given only from the date of issuance of the Government Order. Therefore, this writ petition is filed questioning the Government Order in G.O.Ms.No.(2D) No.1 School Education Department, dated 02.01.2014 to the extent of restricting the monetary benefits from the date of issuance of the said Government Order instead of date of appointment, i.e., 28.07.1997.

5. The learned Additional Government Pleader representing the respondents has taken this Court to paragraph 4 of the counter affidavit which is stated hereunder:



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*“...normally when a person’s service is regularized from a date the regular appointment starts from that date and the persons is eligible for all benefits, but in the petitioners case a relaxation as to her age is given by the G.O.(2D) 1.dated 02.01.2014 and so she is not eligible for monetary benefits strictly speaking at the age of 39 she should not have been given an appointment, but overlooking her age she has been appointed and so her claim for monetary benefits is not sustainable in law.”*

6. Heard both sides and perused the materials available on record.

7. The submissions of the learned Additional Government Pleader is not acceptable, if at all the petitioner was aged 39 years as on the date of issuance of the G.O.(2D) No.1 School Education Department, dated 02.01.2014, the Government should have restricted counting the service from the date of issuance of the said Government Order including monetary benefits. However, the Government has decided and issued such order. Having given a continuous service from 28.07.1997, there is rationality in giving monetary benefits from 02.01.2014, i.e., from the date of issuance of the said Government Order.



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8. The learned counsel for the petitioner has cited authority of a judgement of Division Bench dated 06.04.2016, wherein the relevant portions are extracted hereunder:

*“We have examined the fact from all facets. The issue of regularisation from the backdate is not in dispute. But, no cases has been made out by the appellants as to why the respondents herein are not entitled to monetary benefits from the date of regularisation. It was for the appellants State to regularise the services of the respondents herein, depending on several factors. After the respondents herein have been granted regularisation from the backdate, in the normal course, they are entitled to consequential benefits from the date of regularisation, unless some strong case is made out for not conferring the benefits on the respondents from the date of regularisation. Neither in the G.O nor in the counter affidavit filed before the learned Single Judge, substantial case has been made out by the state appellants to take a contrary view or to deny the benefits of regularisation from the date of regularisation. The learned Single Judge has rightly come to the conclusion that the grant of regularisation from the backdate without ancillary benefits is of no relevance. It is also not stated in the government order that the regularisation is granted for other purpose, but it seems to have been granted for all consequential benefits, which include the monetary benefits. There is no infirmity or illegality in the impugned order. ”*



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9. Accordingly, this writ petition is allowed. The impugned order in G.O.(2D) No.1 School Education Department, dated 02.01.2014 is set aside insofar as restricting the monetary benefits from the date of issue of the impugned order and directing the respondents to grant monetary benefits to the petitioner from the date of regularization of her service namely, 28.07.1997. The respondents are directed to pay the monetary benefits to the petitioner as quickly as possible, not later than four weeks from the date of receipt of a copy of this order. No costs.

**24.01.2024**

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| Index    | : | Yes/No |
| Citation | : | Yes/No |



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**Dr.D.NAGARJUN.J.**

vca

To

1. The secretary to the Government,  
School Education Department,  
Fort St. George, Chennai – 600009
2. The District Elementary Educational Officer  
Nagercoil, Kanyakumari District

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