



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-06-2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN**

**WA No.2848 of 2021
And
CMP No.18963 of 2021**

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Fort St. George,
Secretariat,
Chennai-600 009.
 - 2.The Director of School Education,
Chennai-600 006.
 - 3.The Chief Educational Officer,
Trichy,
Trichy District.
 - 4.The District Educational Officer,
Trichy,
Trichy District.
- .. Appellants

-VS-



1.A.Leema

2.The Accountant General (A&E),
No.361, Anna Salai,
Teynampet,
Chennai-600 018.

3.The Correspondent/Headmistress,
Infant Jesus Girls Higher Secondary School,
Thuvakudimalai,
Kailasapuram,
Tiruchirappalli-620 022.

.. Respondents

Writ Appeal is preferred under Clause 15 of the Letters Patent against
the order passed by this Court in WP No.23617 of 2019 dated 08.01.2020.

For Appellants : Mr.B.Kumaresan,
Additional Advocate General
Assisted by Ms.S.Mythareye Chandru,
Special Government Pleader
(School Education).

For Respondent-1 : Mr.V.Sivalingam for
M/s.C.S.Associates.

For Respondents-2 and 3: No Appearance



WEB COPY

WA No.2848 of 2



J U D G M E N T

[JUDGMENT OF THE COURT WAS DELIVERED

BY S.M.SUBRAMANIAM, J.]

The present Writ Appeal has been filed challenging the writ order dated 08.01.2020 passed in WP No.23617 of 2019.

2. The first respondent-writ petitioner was appointed as B.T. Assistant (Mathematics) in St. Antony's Girls Higher Secondary School, Chennai in the year 1991. Subsequently, the petitioner was transferred to Our Lady of Bon Secours Girls High School at Bangalore on 09.06.1993 and the School at Bangalore is also coming under the same Management.

3. The writ petitioner again got transferred to St. Joseph's Girls Higher Secondary School at Mannargudi and joined there on 06.06.1996. She attained the age of superannuation on 31.08.2016 and retired from service.



4. The writ petitioner filed an application to the respondents to count the services rendered by her in the Private Aided School at Bangalore.

The said claim was rejected by the Government and thereafter, the writ petition came to be instituted.

5. The learned counsel for the first respondent-writ petitioner would submit that in respect of the similar claim, the Government considered and passed G.O.Ms.No.619, dated 29.03.1983.

6. Relying on the said Government Order, the learned Single Judge granted the reliefs. Thus the present Writ Appeal filed by the State is to be rejected.

7. Mr.B.Kumaresan, learned Additional Advocate General, would oppose by stating that admittedly the petitioner served in Private Aided School at Bangalore. The writ petitioner was appointed under the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act.



8. As far as the State Act is concerned, the services of the employees working under the State Governments and receiving salary, are governed under the provisions of the Act. There is no provision under the Act and the Rules to count the services rendered by an employee in Private Aided School in other States. The Government Order issued in G.O.Ms.No.619, dated 29.03.1983, is not applicable to the case of the writ petitioner, since the Government granted the relief of re-fixation of pay and not for counting of the services rendered by Sister Mary Virginia therein.

9. More-so, the Government Order was issued based on the individual facts, which cannot be applied in all other cases. The Court cannot extend the benefits of such individual Government Orders issued to other cases. Considering all the facts and circumstances of the case, the right of the writ petitioner is to be established with reference to the service conditions and the provisions of the Act and the Rules. The State of Tamil Nadu enacted law governing the service conditions of the teaching and non-teaching staff working in the Government Aided Schools. Therefore, the said Act and the Rules would apply in respect of the services rendered by the writ



petitioner in the Private Aided School within the State of Tamil Nadu.

WEB COPY

10. In the present case, the writ petitioner, admittedly, served in Private Aided School at Bangalore and under the Act, there is no provision to count the services for the purpose of pensionary benefits. In such circumstances, the Private Managements before transferring such employees must take care of these aspects and accordingly issue orders of transfers. The Management may be one and the same, but the service conditions and law applicable are different.

11. The Management, in the present case, is a minority management and they may have schools across the country. While transferring the employees, they must consider the implications and other factors in respect of the teachers whose appointments are approved by the Government of Tamil Nadu under the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act and the Rules. They have to be accommodated in any one of the schools, within the State of Tamil Nadu. The approval of appointment by the Government of Tamil Nadu is applicable only in respect of the Schools within the territorial jurisdiction of



the Department of Education in Tamil Nadu and in the present case, admittedly, the writ petitioner served in the State of Karnataka. Therefore, this Court cannot issue any direction to count the services rendered by the writ petitioner in the State of Karnataka.

12. For all these reasons, we find that the reasons furnished by the writ Court is not in consonance with the legal principles to be followed. Accordingly, the writ order dated 08.01.2020 passed in WP No.23617 of 2019 is set aside and the present Writ Appeal stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(S.M.SUBRAMANIAM,J.) (C.KUMARAPPAN,J.)

19-06-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn
To



WEB COPY

WA No.2848 of 2



1. The Secretary to Government,
State of Tamil Nadu,
School Education Department,
Fort St. George,
Secretariat,
Chennai-600 009.
2. The Director of School Education,
Chennai-600 006.
3. The Chief Educational Officer,
Trichy,
Trichy District.
4. The District Educational Officer,
Trichy,
Trichy District.
- 5.2. The Accountant General (A&E),
No.361, Anna Salai,
Teynampet,
Chennai-600 018.

S.M.SUBRAMANIAM, J.
AND



WEB COPY

WA No.2848 of 2



C.KUMARAPPAN, J.

Svn

WA 2848 of 2021

19-06-2024