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W.P.No.21569 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.21569 of 2021 and
W.M.P.No.22766 of 2021

V.Elizabeth Rani

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep by Secretary to the Government,
School Education Department,
Fort St.George, Chennai 600 009.
- 2.The Director of Elementary Education,
College Road,
Chennai 600 006.
- 3.The District Educational Officer,
Tirunelveli District, Tirunelveli.
- 4.The District Educational Officer,
Karur District, Karur.
- 5.The District Educational Officer,
Tenkasi, Tenkasi District.
- 6.The District Educational Officer,
Kulithalai, Karur District.
- 7.The Block Educational Officer,
Tenkasi, Tenkasi District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 and 2 to approve the appointment of the petitioner as Secondary Grade Teacher from 11.03.2002 at A.G.Aided Primary School, Piranur, Tenkasi Taluk



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and at Three Channel, Sengottai (T.K) of then Tirunelveli District, presently Thenkasi District and count the service from 11.03.2002 to 14.07.2009 and add the same to the service of petitioner as secondary Grade Teacher from 15.07.2009 at Krishnarayapuram Panchayat Union, Karur District, for the purpose of pay and pension under Tamil Nadu Old Pension Scheme, 1978 and grant arrears of pay.

For Petitioner : Mr.R.Saseetharan

For Respondents: Mr.Yogesh Kannadasan, SGP

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus to direct the respondents 1 and 2 to approve the appointment of the petitioner as Secondary Grade Teacher from 11.03.2002 at A.G.Aided Primary School, Piranur, Tenkasi Taluk and at Three Channel, Sengottai (T.K) of then Tirunelveli District, presently Thenkasi District and count the service from 11.03.2002 to 14.07.2009 and add the same to the service of petitioner as secondary Grade Teacher from 15.07.2009 at Krishnarayapuram Panchayat Union, Karur District, for the purpose of pay and pension under Tamil Nadu Old Pension Scheme, 1978 and grant arrears of pay.



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2. Heard Mr.R.Saseetharan, learned counsel for the petitioner and Mr.Yogesh Kannadasan, learned Special Government Pleader for the respondents.

3. The petitioner got appointed as Secondary Grade Teacher on 11.03.2002 on consolidated pay at A.G.Aided Primary School in the place of J.Hepsibai Violet who had gone on Voluntary Retirement. The said post is a sanctioned post. However the order of approval was given by the third respondent on 19.01.2007 with effect only from 01.09.2005. Later the petitioner was given with a regular time scale of pay as per G.O.Ms.No.99 dated 27.06.2006. Subsequently, the petitioner has joined in the Government School and she is about to retire shortly. The petitioner has filed this Writ Petition seeking to count her services from the date of her initial appointment i.e., from 11.03.2002.

4. The learned counsel for the petitioner submitted that the post for which the petitioner was appointed was very much a sanctioned post and hence, the Government ought to have approved her appointment from the



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date of her initial appointment i.e., 11.03.2002 and not from 01.09.2005 as stated in the order of the third respondent dated 19.01.2007.

5. The learned Special Government Pleader for the respondents submitted that the petitioner's service has been regularised only from 01.06.2006 and hence the petitioner cannot ask for computation of her service from 11.03.2002 for the purpose of pension or any other benefits. He further submitted that the Government has initially rejected the appointment of the petitioner on the ground that it was illegal. The petitioner has been appointed when several surplus teachers were working in other schools under the Management of A.G.Primary School and hence, the request for approval was rejected on 01.05.2002 itself. The petitioner has stated that she has got the relieving order from the School on 14.07.2009 which is contrary to her appointment order on 16.07.2009 and she joined on 15.07.2009 could not also be true. In fact her appointment itself is on 16.07.2009. After a lapse of 18 years from 11.03.2002 she has come out with this Writ Petition without any merit.



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6. So in a nutshell, the learned Special Government Pleader for the respondents submitted that when surplus teachers were working under the Management of the School which administers the cluster of schools, the Correspondent of the School has got an obligation to transfer surplus teachers to the other school as and when the vacancy arises. This obligation is confirmed by this Court in W.A (MD) No.76 of 2019 dated 31.03.2021.

7. So far as the judgment dated 31.03.2021 in W.A (MD).No.76 of 2019 is concerned, it is about G.O.Ms.No.165 dated 17.09.2019. But in the case in hand, the petitioner claims the validity for her appointment dated 11.03.2002. So it is too much to read into G.O.Ms.No.165 which was passed in the year 2019. Admittedly the petitioner did not choose to challenge the order of approval which was given on 19.01.2007 by specifically making the date of approval as 01.09.2005. The petitioner had accepted the above order and had chosen to receive consolidated pay from 01.09.2005 onwards. Thereafter she has been sanctioned with the regular time scale from 01.06.2006.



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8. The learned counsel for the petitioner submitted that the order of approval was not served on the petitioner and hence, the petitioner has got no obligation to challenge the above order of approval. Her appointing authority had also failed to challenge the said order dated 19.01.2007. So the petitioner had acquiesced herself to the order dated 19.01.2007 and continued the work by subjecting herself under the consolidated pay and thereafter in regular time scale of pay from 01.06.2006. When the petitioner's post has not been sanctioned from the date of her appointment i.e., 11.03.2002, the petitioner cannot expect that her services be counted from 11.03.2002 for the purpose of pensionary benefits. However, it is upto the first respondents to consider the representation of the petitioner dated 26.08.2020 in the light of any other Government Orders or the judicial pronouncements governing the situation and pass appropriate orders within a period of six weeks.

9. In the result, this Writ Petition is disposed and the respondents are directed to consider the representation of the petitioner dated



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26.08.2020 in the light of any other Government Orders or the judicial pronouncements governing the situation and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

02.01.2024

Index : Yes

Internet : Yes/No

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R.N.MANJULA, J.

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To

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