



W.P.(MD).No.1359 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.1359 of 2024

and

W.M.P(MD) No.1408 of 2024

R. Chellapandian

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Department of Education,
St.George Fort, Chennai.
2. The Director of School Education,
College Road,
Chennai – 9.
3. The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
4. The District Educational Officer,
Cheranmahadevi,
Tirunelveli District.
5. The Correspondent,
Senaithalaivar Higher Secondary School,
Vickirasingapuram,
Ambasamuthiram,
Tirunelveli.



W.P.(MD).No.1359 of 2024

6. The Accountant General,
Office of Accountant General,
361, Annasalai, Chennai.

... Respondents

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 the impugned order of the sixth respondent in No.P25/12524083/2/PPO.No.R2524083, dated 17.08.2022 and consequently direct the respondent to revise the pension pay by calculating the pension for 27 years 11 months 19 days, instead of 19 years 2 months 29 days and disburse arrears and all other benefits within stipulated period as fixed by this Court.

For Petitioner : Mr.S.Chellapandian
For R1 to R4 : Mr.N.Satheesh Kumar
Additional Government Pleader
For R5 : No appearance
For R6 : Mr.P.Gunasekaran
Standing Counsel

ORDER

The instant Writ Petition has been filed by a retired Secondary Grade Teacher, challenging the order passed by the sixth respondent, wherein the service of the writ petitioner before successfully completing Child Psychology Course was not taken into consideration for the purposes of calculating pension.



W.P.(MD).No.1359 of 2024

WEB COPY

2. The petitioner after having acquired qualification to be appointed as B.T.Assistant Teacher, without Certificate of the said Child Psychology Course was appointed as a Secondary Grade Teacher. The petitioner has completed the Certificate Course in Child Psychology only on 31.05.2003. Based upon G.O.(Ms) No.155, School Education Department, dated 03.10.2002, the sixth respondent had excluded the services of the petitioner prior to the passing of the Child Psychology Course for the purposes of calculating pension. This order is under challenge in the present writ petition.

3. According to the learned counsel appearing for the writ petitioner, G.O.(Ms) No.155, School Education Department, dated 03.10.2002 was put to challenge before this Court and this Court, by an order, dated 02.04.2004 has upheld the said Government Order, but, directed the authorities to count the past services for the purposes of pension and therefore, the sixth respondent was not right in excluding the said period.

4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 4 as well as the learned counsel appearing for the sixth respondent had contended that in view of Clause 8 of G.O(Ms) No.155,



W.P.(MD).No.1359 of 2024

WEB COPY

School Education Department, dated 03.10.2002, the period during which the petitioner is not having the qualification of Child Psychology Certificate, cannot be considered for any purposes including pension.

5. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

6. In the judgment of the Hon'ble Division Bench of our High Court in W.A.No.249 of 2002, dated 02.04.2004 (***The State of Tamil Nadu, Represented by its Secretary, Education Department Vs. Pallivasal Primary School, Represented by its Correspondent, Mudukulathur***), in Paragraph No.8, it is held 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 seek nothing wrong in the



WEB COPY



W.P.(MD).No.1359 of 2024

*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.***

7. In view of the judgment of the Hon'ble Division Bench of our High Court, it is clear that though the period during which the petitioner is not possessing the Child Psychology Certificate cannot be considered for any purpose, the same could be granted for the purposes of pension.

8. In such circumstances, the order of the sixth respondent excluding the said period for the purposes of calculating pension is not legally sustainable and therefore, the order impugned in the writ petition is set aside and the sixth respondent is directed to calculate the period between 11.03.1996 and 31.05.1993 as pensionable service and calculate the pension and disburse the benefits within a period of twelve weeks from the date of receipt of a copy of this order.



W.P.(MD).No.1359 of 2024

WEB COPY

9. With the above said observations, this Writ Petition stands allowed to the extent as stated above. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

19.10.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi

To

1. The Secretary,
Department of Education,
St.George Fort, Chennai.
2. The Director of School Education,
College Road,
Chennai – 9.
3. The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
4. The District Educational Officer,
Cheranmahadevi,
Tirunelveli District.
5. The Correspondent,
Senaithalaivar Higher Secondary School,



W.P.(MD).No.1359 of 2024

WEB COPY
Vickirasingapuram,
Ambasamuthiram,
Tirunelveli.

6. The Accountant General,
Office of Accountant General,
361, Annasalai, Chennai.

R.VIJAYAKUMAR,J.



WEB COPY



W.P.(MD).No.1359 of 2024

ebsi

W.P(MD)No.1359 of 2024

19.10.2024