



W.A.(MD)No.715 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 28.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE P.VADAMALAI**

**W.A.(MD)No.715 of 2021
and
C.M.P.(MD)No.3150 of 2021**

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Secretariat, Chennai - 600 009.
- 2.The Director of Elementary Education,
EVK Sampath Building, DPI Complex,
Chennai - 600 006.
- 3.The District Elementary Educational Officer,
Paramakudi,
Ramanathapuram District. ... Appellants / Respondents

Vs.

- 1.S.K.Prakash ... 1st Respondent / Writ Petitioner
- 2.The Correspondent,
Sourashtra Higher Secondary School,
Paramakudi, Ramnad District. ... 2nd Respondent / 4th Respondent



W.A.(MD)No.715 of 2021

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to set aside the order 07.09.2017 passed in W.P.(MD).No.16890 of 2017 on the file of this Court and dismiss the writ petition.

For Appellants : Mr.V.Om.Prakash,
Government Advocate.

For Respondents : Mr.K.Vadivelu for R1
Mr.P.Ramachandran for R2

JUDGMENT

(Judgment of the court was delivered by G.R.Swaminathan, J.)

Heard both sides.

2.The respondent herein / Thiru.S.K.Prakash was appointed as Secondary Grade Teacher in Sourashtra Higher Secondary School, Paramakudi on 03.04.1996. Of course, he was over-qualified for the post. He should have been in fact appointed as B.T.Assistant. Since only a secondary grade teacher vacancy was available, he was appointed as against the said vacancy. Approval was granted by the District Educational Officer, Paramakudi vide letter dated 14.07.1996. The

2/7



W.A.(MD)No.715 of 2021

appointments of a number of similarly placed persons were not however approved. Therefore, they filed writ petitions before the Madras High Court. The Government came out with G.O.(Ms)No.155 dated 03.10.2002. It was agreed that the appointments will be approved after the appointees undergo a month's child psychology training. Since the respondent had not undergone child psychology training, he was also required to undergo child psychology training. He completed the same on 31.05.2003.

3.The question that arises for consideration is whether S.K.Prakash was entitled to selection grade on completion of ten years with effect from 03.04.1996. The department took the stand that the period of ten years will be reckoned from the date when he completed the child psychology training. The case of S.K.Prakash was that the period should be reckoned from the date of his original appointment. S.K.Prakash filed W.P.(MD)No.16890 of 2017. It was allowed vide order dated 07.09.2017. Challenging the same, this writ appeal came to be filed by the department.



W.A.(MD)No.715 of 2021

WEB COPY

4.The learned Government Advocate for the department relied on the terms of G.O.(Ms)No.155 dated 03.10.2002 as well as the decision of the Hon'ble Division Bench reported in **2004-2-L.W. 591 (The State of Tamil Nadu, Rep. by its Secretary, Education Department, Chennai – 9 Vs. Pallivasal Primary School, Rep. by its Correspondent, Mudukulathur)** and few other decisions. No doubt in **Pallivasal Primary School** case, it was specifically directed that the over-qualified teachers who are appointed as Secondary Grade Teachers will become eligible for approval only after they complete the child psychology training and that their past service will count only for pension purpose.

5.No doubt, the contention advanced by the learned Government Advocate is technically sound and correct. But a Division Bench of this Court to which one of us was a party (W.A.(MD)Nos.1085 of 2014 etc dated 12.07.2017) had held that when the appointments were approved, the confirmation of selection grade will have to be given on completion of ten years therefrom. This decision was followed by another Hon'ble Division Bench of this Court in W.A.(MD)No.1474 of 2017 dated



W.A.(MD)No.715 of 2021

17.09.2021 (The District Elementary Educational Officer, Madurai District Vs. S.Kannagi).

6.If the appointment of S.K.Prakash had not been originally approved, then the position would have been different. In this case, S.K.Prakash's appointment was approved with effect from 14.07.1996. Therefore, selection grade ought to be conferred on him on completion of ten years therefrom. It is because of this reason, we hold that the decision rendered in *Pallivasal Primary School* case is not applicable. The order impugned in the writ appeal is sustained and the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (P.V.M. J.)
28.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias



W.A.(MD)No.715 of 2021

To:-
WEB COPY

- 1.The Secretary to Government,
School Education Department,
Secretariat, Chennai - 600 009.
- 2.The Director of Elementary Education,
EVK Sampath Building, DPI Complex,
Chennai - 600 006.
- 3.The District Elementary Educational Officer,
Paramakudi,
Ramanathapuram District.



WEB COPY



W.A.(MD)No.715 of 2021

G.R.SWAMINATHAN, J.
and
P.VADAMALAI, J.

ias

W.A.(MD)No.715 of 2021

28.11.2024