



W.P.(MD)No.6759 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.6759 of 2021

and

W.M.P.(MD).No.5199 of 2021

V.Monimozhi

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Fort St. George, Chennai-600 009.
- 2.The Director of Elementary Education,
Nungambakkam,
Chennai-600 006.
- 3.The Chief Educational Officer,
O/o.The Chief Educational Office,
Dindigul,
Dindigul District.
- 4.The Chief Educational Officer,
O/o.The Chief Educational Office,
Collectorate Campus,
Karur, Karur District.
- 5.The District Educational Officer,
O/o. The District Educational Office,
Vedasandur, Dindigul District.



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6.The District Educational Officer,
O/o.The District Educational Office,
Karur, Karur District.

7.The Block Educational Officer,
O/o.The Block Educational Office,
Vedasandur Union,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 5th respondent in his proceedings in Na.Ka.No.2665/Aa2/2019, dated 05.01.2021 and quash the same as illegal and consequently to direct the respondents to regularize the services of the petitioner as Secondary Grade Teacher w.e.f 03.01.2002 as was granted in respect of the similarly placed persons vide G.O.Ms.No.143, School Education (S-2) Department, dated 25.06.2007 and G.O.(3D).No.128, School Education (G2) Department, dated 28.09.2011 within the period that may be stipulated by this Court.

For Petitioner : Ms.Jessima Yasmin
for Mr.S.Ajmal Associates

For Respondents : Mr.T.Amjadkhan,
Government Advocate

ORDER

This Writ Petition has been filed challenging the order dated 05.01.2021 passed by the fifth respondent rejecting the petitioner's request to regularize her



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service as a Secondary Grade Teacher with effect from 03.01.2002 as was granted in respect of the similarly placed persons vide G.O.Ms.No.143, School Education (S-2) Department, dated 25.06.2007 and G.O.(3D).No.128, School Education (G2) Department, dated 28.09.2011.

2. The petitioner claims that there was a delay on the part of the respondents to regularize her service as a Secondary Grade Teacher. According to the petitioner, her service as a Secondary Grade Teacher ought to have been regularized with effect from 03.01.2002. According to her, similarly placed persons were appointed on 03.01.2002 itself, but, for no fault of the petitioner, she was appointed only on 19.07.2004 to the post of Secondary Grade Teacher.

3. A counter affidavit has been filed by the respondents.

4. As seen from the same, they would state that on account of delay and laches on the part of the petitioner, she is not entitled to be regularized with effect from 03.01.2002. They would state that the petitioner was registered in the Employment Exchange at different places and also she did not produce her Nativity Certificate and that is the reason for issuing the appointment order to the petitioner much later than the other persons whom the petitioner claims are



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similarly placed. Hence, according to them, only by following the due procedure, appointment order was issued to the petitioner and therefore, she cannot claim that her service as a Secondary Grade Teacher, ought to have been regularized with effect from 03.01.2002 itself

5. Learned counsel appearing for the petitioner drew the attention of this Court to an order dated 07.06.2024 passed by this Court in ***W.P.(MD).Nos. 14778 and 14781 of 2020*** in the case of ***S.Muthuvel Vs. the State of Tamil Nadu, represented by its Secretary, School Education Department, Fort St.George, Chennai-600 009 and Others*** and would submit that in an identical matter, this Court had quashed a similar impugned order and directed the fourth respondent to regularize the services of the petitioner therein as Secondary Grade Teacher with effect from 03.01.2002.

6. Learned Government Advocate appearing for the respondents would submit that the question of laches that is raised in this Writ Petition by the respondents was not considered in the aforesaid order passed by the learned Single Judge. Further, he would submit that in all probability, the respondents would have preferred a Writ Appeal as against the order dated 07.06.2024 passed in W.P.(MD).Nos.14778 and 14781 of 2020.



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7. Learned counsel appearing for the petitioner also relied upon a Division Bench Judgment of this Court, dated 22.12.2021 in W.A.No.1769 of 2011 and would submit that in the said decision involving an identical matter, the Division Bench had regularized the services of the Secondary Grade Teacher with effect from 03.01.2002, but, however, as seen from the decision, it has been made clear that the relief of monetary benefits was rejected by following the principle of “No Work - No Pay”.

8. Learned counsel has received instructions from the petitioner that the petitioner is also agreeable to waive his right to claim monetary benefits, in case, this Court directs the respondents to regularize the services of the petitioner as Secondary Grade Teacher with effect from 03.01.2002. The said submission made by the learned counsel appearing for the petitioner on instructions is recorded by this Court.

9. Even though the respondents have alleged that there is no fault on their part for delaying the issuance of appointment order in favour of the petitioner, but, there are no documentary evidence placed on record before this Court to prove the same. A Categorical assertion has been made by the petitioner that



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for no fault of the petitioner, the appointment order was issued in her favour belatedly. Though similarly placed Secondary Grade Teachers were issued appointment orders which came into effect from 03.01.2002, the another learned Single Judge of this Court by an order dated 07.06.2024 passed in W.P. (MD).Nos.14778 and 14781 of 2020 referred to supra, had an occasion to consider the similar issue and the question of laches was also considered.

10. In the said order, the learned Single Judge has observed that the order passed by this Court in W.P.(MD).Nos.5870 to 5872 of 2019, dated 13.03.2019 would reveal that the respondents have considered the representation of the petitioners in the aforesaid writ petitions dated 28.11.2018 and had passed favourable orders.

11. Therefore, the learned Single Judge in the order dated 07.06.2024 passed in W.P.(MD).Nos.14778 and 14781 of 2020 has observed that the question of laches would not arise, since the respondents had already passed favourable orders in favour of other similarly placed persons, who were the petitioners in W.P.(MD).Nos.5870 to 5872 of 2019 dated 13.03.2019.

12. The benefit of doubt should always be given to the persons seeking



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employment when there is no evidence placed on record before this Court to prove that there was a delay on the part of the persons seeking employment as it is in the case on hand. This Court by following the decision of the Division Bench dated 22.12.2011 passed in W.A.No.1769 of 2011 is inclined to grant a similar relief as was granted in the said decision.

13. Accordingly, the impugned order dated 05.01.2021 passed by the fifth respondent is hereby quashed and the services of the petitioner as Secondary Grade Teacher is regularized with effect from 03.01.2002 as was granted in respect of similarly placed persons vide G.O.Ms.No.143, School Education (S-2) Department, dated 25.06.2007 and G.O(3D).No.128, School Education (G2) Department, dated 28.09.2011. However, it is made clear that the petitioner is not entitled for any monetary benefits as was held in the Division Bench Judgment dated 22.12.2011 passed in W.A.No.1769 of 2011.

14. Accordingly, the Writ Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

05.09.2024

NCC:yes/no
Index:yes/no



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Internet:yes/no

TSG

To

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- 2.The Director of Elementary Education,
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ABDUL QUDDHOSE, J.

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