



W.P.(MD).No.9113 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.9113 of 2024

Madalai Mary

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
St. Fort George, Chennai 9.
2. The Director of Elementary Education,
DPI Campus, College Road,
Chennai 600 006.
3. The District Elementary Educational Officer,
Nagercoil, Kanyakumari District.
4. The Assistant Elementary Educational Officer,
Kuzhithurai, Kanyakumari District.
5. The Correspondent,
St. Joseph High School,
Karunyapuram, Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus, directing the respondents to



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approve the appointment of the petitioner as Secondary Grade Teacher with effect from 02.06.1997 that is from the date of appointment and to regularize the service of the petitioner from 02.06.1997 to 01.06.2003 as per G.O.No. 413 Finance (PGC) Department, dated 04.11.2010 by considering the proposal of the 5th respondent dated 18.10.2023 and to disburse all the monetary and service benefits consequent to the same, within a time that may be fixed by this Court.

For Petitioner : Mr. S.C.Herold Singh
For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

The petitioner has filed this writ petition seeking to issue a direction to the respondents to approve the appointment of the petitioner as Secondary Grade Teacher with effect from 02.06.1997 and to regularize the service of the petitioner from 02.06.1997 to 01.06.2003, as per G.O.No. 413 Finance (PGC) Department, dated 04.11.2010 by considering the proposal of the 5th respondent, dated 18.10.2023 and to disburse all the monetary and service benefits.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents. Perused the materials available on record.



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3.The petitioner claims that he is entitled to get the benefits as per G.O.No. 413 Finance (PGC) Department, dated 04.11.2010, which reads as under:

“8.Government after careful consideration, decided to implement the orders of the High Court in W.P.Nos.26933 and 26934 of 2007, W.P(MD) Nos.10447 and 5174 of 2008, 4537/2009, 1375/2010 and W.P.Nos.12280 to 12282 of 2010. Government accordingly direct the B.T.Assistants/Tamil Pandits having B.Ed qualifications, who were appointed as Secondary Grade Teachers in the sanctioned regular posts in private aided schools during the period from 11.07.1995 to 19.05.1998 and whose services were regularised as per G.O.(Ms) No.155/School Education (D2) Department, dated 03.10.2002 are to be extended the Old Pension Scheme and the General Provident Fund as applicable to the teachers appointed before 01.04.2003 and that they are not governed under G.O.Ms.No.430/Finance (Pension) Department, dated 06.08.2004.”

4.In this regard, the earlier order that has been passed by this Court in W.P.(MD) No.15670 of 2016, which is held as under:

“12. The issue to be considered in the present writ petition is whether the past service rendered by the petitioner before his completion of Child Psychology Training shall be considered or



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not. In fact, this issue was already considered by a Division Bench of this Court in State of Tamil Nadu, represented by its Secretary and others Vs. Pallivasal Primary School, represented by its Correspondent reported in 2004-2- L.W.591. In the said judgment, the Division Bench of this Court has held that the past services rendered by the Teachers shall be counted for pension. By following the judgment of the Division Bench, a learned Single Judge of this Court allowed writ petitions in W.P.(MD) Nos. 21803 and 21804 of 2019 and 8154 of 2016 by order dated 25.11.2019 directing the respondents to count the services of the petitioners therein rendered before their approval for pensionary benefits. In the writ appeal filed against the orders of the learned Single Judge in W.P.(MD) No. 8154 of 2016, by order dated 28.07.2021, in W.A.(MD) No.1464 of 2021, a Division Bench of the Madurai Bench of this Court dismissed the said writ appeal confirming the order of the learned Single Judge.

13. In fact, in the present writ petition also, the petitioner was appointed prior to 01.04.2003 and his appointment was approved. The ratio in the judgment referred above is squarely applicable to the facts of the present case. Therefore, the impugned order is liable to be set aside.

14. For the above mentioned reasons, this Writ Petition is allowed with the following directions: i)The impugned order in A.thi.Mu.No.05924/A1/14 dated 05.06.2015 is set aside; ii)The respondents are directed to count the service of the petitioner from 17.02.1998 to 01.06.2003, which is rendered prior to his approval for payment of pensionary benefits.”



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5.As submitted by the learned Government Advocate appearing for the respondents that the petitioner has filed this writ petition without challenging the order of regularization which was given effect from 02.06.2023. Therefore, the writ petition itself is not maintainable. However, the representation of the petitioner also has not been considered so far.

6.Hence, this Court, without going into the merits of the matter, directs the respondents 1 to 4 to consider the proposal of the 5th respondent, dated 18.10.2023 and pass appropriate orders in accordance with law, within a period of eight (8) weeks from the date of receipt of copy of this order.

7.With the above direction, this writ petition stands disposed of.
There shall be no order as to costs.

12.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM



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To

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R.N.MANJULA, J.

PNM

ORDER IN
W.P.(MD).No.9113 of 2024

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