



WP(MD) No.11912 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.11912 of 2022

A.R.Pandimeenal

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Education Department,
Secretariat, Fort St. George,
Chennai - 9.

2. The Director of Elementary Education,
College Road,
Chennai - 6.

3. The District Educational Officer,
Thirupthur,
Sivagangai - 630 211.



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4. The Block Educational Officer-I,
Thirupathur, Sivagangai District.

5. The Correspondent,
S.P.D. Kalasalai Middle School,
Kandavrayanpatti,
Thirupathur Taluk,
Sivagangai District.

...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 entire records connected with the impugned order passed by the 2nd respondent in Na.Ka.No.8084/G3/2019 dated 02.08.2019 and quash the same and consequently direct the 2nd and 3rd respondents to approve the appointment of the petitioner as Secondary Grade Teacher with effect from 07.02.1996, in the 5th respondent school, by continuing the earlier scale of pay and thereby sanction Selection Grade and Special Grade increments with effect from 07.02.2006 and 07.02.2016 respectively, with all consequential benefits arising thereof.

For Petitioner : Mr.Xavier Rajini

For R1 to R4 : Mr.T.Amjadkhan
Government Advocate



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ORDER

Heard Mr.Xavier Rajini, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents 1 to 4.

2. The limited relief for which the petitioner has filed this writ petition is to quash the impugned order of the 2nd respondent in Na.Ka.No.8084/G3/2019 dated 02.08.2019 and consequently, to direct the respondents 2 and 3 to approve her appointment as Secondary Grade Teacher with effect from 07.02.1996 in the 5th respondent school and sanction Selection Grade and Special Grade increments with effect from 07.02.2006 and 07.02.2016 respectively with all consequential benefits arising thereof.

3. The petitioner is a pensioner who retired on 31.05.2016. The petitioner was originally appointed as a Pre-Vocational Instructor on 19.02.1988 in the fifth respondent School and her appointment was duly approved. When a vacancy arose in the same School for the post of



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Secondary Grade Teacher on 02.08.1995, after obtaining due permission from the third respondent, the petitioner was appointed in that post. The petitioner's appointment as Secondary Grade Teacher was approved by the third respondent on 24.09.1996. Thereafter, the petitioner's appointment as Secondary Grade Teacher was once again approved *w.e.f.* 02.06.2003 by the proceedings of the third respondent dated 21.11.2003. The petitioner had completed Child Psychology Training as per the G.O.Ms.No.155 dated 03.10.2002 and hence, it is told that the approval has been granted with effect from the year 2003.

4. The attention of this Court was drawn to the earlier order of this Court in W.P.(MD)No.16 of 2015 dated 28.11.2018, wherein it is observed that the Government Order in G.O.Ms.No.155 dated 03.10.2002 mandates completion of Child Psychology Training for granting approval to the post of Secondary Grade Teacher for those who are appointed without possessing adequate qualification.

5. However, it is to be noted that the said Government Order was issued only at a later point of time in the year 2002.



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6. Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents 1 to 4 submitted that despite the petitioner retired as early as in the year 2016, she had chosen to file this writ petition only in the year 2022 and hence, the petition itself is affected by delay and laches.

7. It cannot be omitted to take notice that the impugned order came to be passed only pursuant to the direction of this Court in W.P. (MD)No.4003 of 2019 on 21.03.2019. The petitioner was running from pillar to post and was knocking the doors of the Court every now and then for some reason or other. Hence, the delay cannot be held against her.

8. The petitioner's appointment was earlier put to challenge in view of the fact that she was holding B.Ed., Degree which was considered as a higher qualification to the post of Secondary Grade Teacher at the relevant point of time. The fact remains that the post has been sanctioned only after getting permission from the respondent



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Department. Had the Department not accorded to fill up the post, the petitioner would not have got appointed. In fact, the third respondent by his proceedings dated 24.09.1996 granted approval to the petitioner's appointment as Secondary Grade Teacher *w.e.f.* 07.02.1996 in a time scale of pay in the post of Secondary Grade Teacher. The above proceedings of the third respondent dated 24.09.1996 has never been cancelled subsequently in any of the proceedings of the respondents. While so, once again, the petitioner's appointment was freshly approved *w.e.f.* 02.06.2003 by the proceedings of the third respondent dated 21.11.2003, without even cancelling the earlier approval of the appointment. The original order of approval granted to the petitioner's appointment was *w.e.f.* 07.02.1996 and it is very much in force. The subsequent order dated 21.11.2003 is passed by revising the date of approval to the petitioner afresh with effect from a later date and the impugned order dated 02.08.2019 has been passed by re-asserting the order dated 21.11.2003.



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9. The one and only reason for which the representation of the petitioner was rejected and her date of approval has been revised to some later date from her date of appointment, is that the training in child psychology has been completed by the petitioner only on 31.05.2003.

10. In this regard, it is relevant to cite the judgment of the learned Single Judge of this Court in W.P.No.16236 of 1998 dated 11.06.2008. In the said judgment, a similar issue has been raised and the Court has observed that even though the Government Order in G.O.Ms.No.559 Education, Science and Technology Department dated 11.07.1995 mandates a training in child psychology and it has been held to be valid, the order would clarify that the persons appointed as Secondary Grade Teachers prior to 19.05.1998 can be approved provided those teachers are given with training in 'child psychology' for a period of one month. From the said order, it is learnt that the Government Order in G.O.Ms.No.559 dated 11.07.1995 was challenged by some of the individuals. But the same has got dismissed on 19.05.1998. However in the later W.P.No.16236 of 1998, a leverage was given for granting an approval for those persons whose appointments have been made prior to



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the date of dismissal of the writ petition challenging G.O.Ms.No.559 dated 11.07.1995. Since the date of dismissal is 19.05.1998, the above order would direct the approval for the appointments made prior to 19.05.1998. Obviously, the appointment for the petitioner to the post of Secondary Grade Teacher has been made on 07.02.1996 which is prior to the cut of date *i.e.*, 19.05.1998. In the instant case, the petitioner's appointment even was approved on 24.09.1996 and hence, there is no question of revising the date of approval once again by giving effect to a later date.

11. Since it is the obligation of the Department to send the individuals for training and the cut off date is 19.05.1998, the Department cannot take it as granted for deputing the petitioner to undergo the training at any later point of time. Since the impugned order has been passed unmindful of the earlier order passed in W.P.No.16236 of 1998 dated 11.06.2008 and also missing the fact that the petitioner's appointment has already been approved on 24.09.1996, the impugned order is liable to be set aside.



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12. In the result, this Writ Petition is **allowed**. The impugned order passed by the 2nd respondent in Na.Ka.No.8084/G3/2019 dated 02.08.2019 is set aside. The respondents 2 and 3 are directed to approve the appointment of the petitioner as Secondary Grade Teacher with effect from 07.02.1996, in the 5th respondent school, by continuing the earlier scale of pay and thereby, sanction Selection Grade and Special Grade increments with effect from 07.02.2006 and 07.02.2016 respectively, with all consequential benefits arising thereof. No Costs.

21.06.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
PJL/mbi

To

1. The Secretary to Government,
State of Tamil Nadu,
Education Department,
Secretariat, Fort St. George,
Chennai - 9.

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2. The Director of Elementary Education,
College Road, Chennai - 6.

3. The District Educational Officer,
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4. The Block Educational Officer-I,
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R.N.MANJULA, J.

PJL/mbi

Order made in
W.P.(MD)No.11912 of 2022

Dated:
21.06.2024