



DATED: 05.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)Nos.14821 to 14830 of 2024

and

W.M.P.(MD)Nos.12991, 12993, 12997, 12998,
13039, 13040, 13023, 13022 and 13026 of 2024

W.P.(MD)No.14821 of 2024

M.K.Jameela Beevi

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government,
Education Department,
Fort. St. George,
Chennai-600009.
2. The Director of School Education,
DPI Campus,
College Road,
Chennai-600006.
3. The District Educational Officer,
Tirunelveli Educational District,
Tirunelveli,
Tirunelveli District.



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4. The Correspondent,
Muslim Higher Secondary School,
Melappalayam,
Tirunelveli District.

... Respondents

*(Memo dated 05.07.2024 filed by the petitioners is recorded.
Cause title is amended as per memo filed by the petitioners,
dated 05.07.2024)*

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 in Moo.Moo.No. 72054/D2/E3/2014 dated 24.09.2020 issued by the second respondent and quash the same in so far as denial of arrears of salary and other monetary benefits for the period from 30.03.1998 to 01.06.2003 as illegal and consequently direct the respondents No.2 to 4 to grant arrears of salary for the period from 30.03.1998 to 01.06.2003 along with all other monetary service benefits.

For Petitioner : Mr.B.Prasanna Vinoth

For R1 to R3 : Mr.T.Amjad Khan
Government Advocate

COMMON ORDER

The Writ Petitions are directed against the orders dated 24.09.2020 passed by the second respondent and for direction to the respondents 2 to 4 to grant arrears of salary for the period from 30.03.1998 to 01.06.2003,



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from 31.03.1998 to 01.06.2003 and from 02.06.1997 to 01.06.2003 along with all other monetary service benefits.

2. Mr.T.Amjad Khan, learned Government Advocate takes notice for the respondents 1 to 3. By consent, this writ petition is taken up for final disposal at the admission stage itself.

3. The main contention of the writ petitioners is that as per their appointment, they have to complete Child Psychology Training and only on completion of the Child Psychology Training, their appointment will be approved, that they completed Child Psychology Training on 31.05.2003 and based on the completion certificate, their appointment was approved on 02.06.2003 and their appointment approved from the date of their completion of Child Psychology Training alone, that the third respondent denied service benefits and also refused to count their service from their original date of appointment towards regular vacancy i.e., on 30.03.1998 to 01.06.2003, 31.03.1998 to 01.06.2003 and 02.06.1997 to 01.06.2003 when they had completed their Child Psychology Training, that since the above period are not taken into



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account, they made representations for counting their service, but the same were rejected by the third respondent, that the writ petitioners have challenged the same before this Court and as per the direction of this Court, the writ petitioners made representations and the same were forwarded to the second respondent and that the second respondent has passed the impugned orders refusing to count their service from 30.03.1998 to 01.06.2003, from 31.03.1998 to 01.06.2003 and from 02.06.1997 to 01.06.2003 for seniority and pensionary benefits.

4. It is not in dispute that the writ petitioners have filed earlier writ petitions challenging the orders passed by the third respondent dated 08.07.2013, 08.08.2013, 24.10.2013 and 08.08.2012 and for directions to the respondents 1 to 3 to pay the salary for the period from 11.03.1998 to 01.06.2003, from 03.04.1998 to 01.06.2003, from 04.03.1998 to 01.06.2003, from 12.03.1998 to 01.06.2003, from 05.03.1998 to 01.06.2003, from 03.06.1997 to 01.06.2003, from 02.06.1997 to 01.06.2003 and from 30.03.1998 to 01.06.2003 and a learned Judge of this Court, by referring the judgment of the Hon'ble Division Bench of this Court in *W.A.(MD)Nos.74 of 2015 and 957 of 2016 dated*



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21.03.2018, has directed the second respondent therein to reconsider the cases of the writ petitioners with reference to the facts and circumstances.

5. It is necessary to refer the observations of the Hon'ble Division Bench along with the order passed by the learned Single Judge of this Court,

“3.The grievances of the writ petitioners are that the approval was granted by the authority competent. However, the arrears of salary due to the writ petitioners from the date of their appointment has not been paid. The representation submitted by the writ petitioners in this regard was rejected by the third respondent, stating that the order passed by the Principal Seat of this Court in W.P.No.28647 of 2015, dated 11.09.2015 is not applicable to the writ petitioners. However, the matter went by way of an appeal before the Hon'ble Division Bench passed an order in W.A.(MD)Nos.74 of 2015 and 957 of 2016 on 21.03.2018. The relevant portion of the Judgment is extracted hereunder:-

“10.The learned counsel for the respondents/writ petitioners relied on certain other orders passed by various Single Benches including one of us (TSSJ) and on perusal of the



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same, we find that in none of those decisions, the full effect of G.O.Ms.No.155 and the conditions therein have been thoroughly examined. Apart from that, the decision in the case of Pallivasal Primary School has not been specifically noted. Therefore, we are of the considered view, that those decisions cannot be referred to advance the case of the respondents/writ petitioners, though some of them have attained finality. Needless to state that if there has been a wrong decision, it cannot be treated as precedent.

11.In the light of the above reasoning, we are of the considered view that the order passed by the Writ Court directing disbursement of salary from the date of original appointment, cannot be sustained, in the light of explicit condition imposed in G.O.Ms.No.155, which was upheld by the Division Bench in a Public Interest Litigation. Thus, for the above reasons, the writ appeals filed by the department has to be allowed.

12.The learned counsel for the respondents submitted that though there were about 3000 Teachers who were appointed in such improper manner as of now 300 Teachers would be entitled



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to monetary benefits and as remaining persons were already paid and they were protected by the Division Bench order from the effect of recovery, the learned counsel submitted that the respondent should be permitted to approach the Government by way of representation.

13. We make no positive observation on this request. But it is always open to the respondents/writ petitioner to approach the Government, if they so desire. For the above reasons the writ appeals are allowed and the impugned orders are set aside and consequently, the writ petitions are dismissed. No costs. Consequently, M.P.(MD)Nos.1 and 2 of 2015 and C.M.P.(MD)No.5749 of 2016 are closed.”

4. In view of the Judgment of the Hon'ble Division Bench, cited supra, the cases of the writ petitioners are to be reconsidered with reference to the facts and circumstances. Accordingly, the second respondent is directed to reconsider the cases of the writ petitioners in the light of the judgment, cited supra, and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. The writ petitioners are permitted to submit a fresh



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representation and all other relevant documents along with the order passed in these writ petitions.”

6. The learned counsel appearing for the writ petitioners would submit that the writ petitioners have given representations in pursuance of the direction of this Court, but the second respondent, without considering the above aspects in proper perspective, rejected the main claim of the writ petitioners.

7. When the matter is taken up for hearing today, the learned Government Advocate appearing for the respondents would submit that the matter may be remitted back to the second respondent for considering the matter afresh in accordance with the observation made by the Hon'ble Division Bench and the order passed by the learned Single Judge in ***W.P. (MD)Nos.18198 of 2013, etc., batch dated 09.08.2019.***

8. Considering the above facts and circumstances and also taking note of the submissions made on either side, the impugned order passed by the second respondent is hereby quashed and the matter is remitted back to the second respondent to consider the representations of the writ



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petitioners in the light of the judgment of the Hon'ble Division Bench above referred and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above direction, these Writ Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

05.07.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
csm

To

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State of Tamil Nadu,
Education Department,
Fort. St. George,
Chennai-600009.
2. The Director of School Education,
DPI Campus,
College Road,
Chennai-600006.
3. The District Educational Officer,
Tirunelveli Educational District,
Tirunelveli,
Tirunelveli District.



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K.MURALI SHANKAR, J

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Common Order made in
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