



W.P.(MD).No.28864 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.28864 of 2024

and

W.M.P(MD) No.24447 of 2024

M.Kandhavel

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
Department of Finance (Pension),
Fort St. George, Chennai – 600 009.
2. The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort. St. George, Chennai – 600 009.
3. The Accountant General,
Office of the Accountant General,
261, Anna Salai, Chennai – 600 018.
4. The Director of School Education,
College Road, Chennai – 600 006.
5. The Chief Educational Officer,
Pudukkottai,
Pudukkottai District.



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6. The Headmaster,
Government Higher Secondary School,
Avudaiyar Koil,
Pudukottai – 614 618.

... 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 records relating to the impugned proceeding issued by the third respondent Accountant General in PPO No.R1729314, dated 09.08.2024 refusing to count the service from 07.11.1997 to 01.06.2003 as qualifying service for pension, quash the same and further direct the respondents herein to count the service of the petitioner as Secondary Grade Teacher from 07.11.1997 to 01.06.2003 as qualifying service for the purpose of pension in the light of the law laid down by this Court in *the State of Tamil Nadu and Others V. Pallivasal Primary School, represented by its Correspondent, Mudukulathur* reported in **2004-2, L.W.591**.

For Petitioner	: Ms.A.Amala
For R1, R2 and and R4 to R6	: Mr.T.Amjadkhan Government Advocate
For R3	: M/s. Chamundi Bose Standing Counsel.



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ORDER

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The instant Writ Petition has been filed by a retired B.T.Assistant Teacher challenging the order passed by the third respondent herein on 09.08.2024, wherein the services of the writ petitioner as a Secondary Grade Teacher prior to the completion of Child Psychology Training has been excluded for the purpose of calculating pension.

2. A perusal of the records reveal that the petitioner was appointed as a Secondary Grade Teacher on 07.11.1997, with B.Sc., B.Ed., qualification. The petitioner has undergone one month Child Psychology Training between 02.05.2003 and 31.05.2003. The authorities have approved the appointment of the writ petitioner as Secondary Grade Teacher with effect from 07.11.1997 onwards. The petitioner has attained the superannuation on 30.06.2024. When the pension proposals were forwarded to the third respondent, under the impugned order the third respondent has returned the same stating that pension can be sanctioned only after excluding the period prior to the completion of Child Psychology Training. This order is under challenge in the present writ petition.



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3. According to the learned counsel appearing for the writ petitioner, the educational authorities have approved the appointment of the writ petitioner with effect from 07.11.1997 onwards and he had received salary through grant-in-aid from the said date itself. Therefore, the period of prior to completion of Child Psychology Training cannot be excluded from the pensionable service.

4. The learned counsel for the petitioner has also relied upon the Hon'ble Division Bench judgment of our High Court in ***(State of Tamil Nadu, Represented by its Secretary, Education Department Vs. Pallivasal Primary School, Represented by its Correspondent, Mudukulathur, in W.A.No.249 of 2002, dated 02.04.2004*** and contended that as per the judgment of the Hon'ble Division Bench, the period prior to completion of Child Psychology Training shall be counted for pension.

5. Per contra, the learned counsel appearing for the respondents herein had submitted that the petitioner would get qualification, to be appointed as Secondary Grade Teacher only from the date on which he had completed the Child Psychology Training. Therefore, the period of service prior to the said



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date cannot be taken into consideration for the purpose of calculating pensionable service.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. Though the petitioner has completed Child Psychology Training on 31.05.2003, the educational authorities have approved the appointment of the petitioner with effect from 07.11.1997 and the petitioner is receiving salary through grant – in – aid from the said date onwards.

8. The Hon'ble Division Bench of our High Court, while considering the validity of G.O.(Ms) No.155, School Education Department, dated 03.10.2002, in the judgment in W.A.No.249 of 2002, dated 02.04.2004 (*The State of Tamil Nadu, Represented by its Secretary, Education Department Vs. Pallivasal Primary School, Represented by its Correspondent, Mudukulathur*), in Paragraph No.8, has held as follows:

“..... 8. *Their right to be regarded as persons*



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*eligible for confirmation/approval can be said to arise only after they acquired, after their training, a minimum prescribed qualification. The Government here has shown great concession to them by allowing them to retain their position even without obtaining the requisite diploma or certificate in child psychology by giving to them training in child psychology. We seek nothing wrong in the Government directing that their approval/confirmation can only be on and after the date they complete the training. **Their past service however shall count for pension.***”

9. In view of the judgment of the Hon'ble Division Bench of our High Court, it is clear that though the period during which the petitioner is not possessing the Child Psychology Certificate cannot be considered for any other purpose, the same could be counted for the purposes of pension.

10. In view of the above said legal position, the third respondent herein was not right in excluding the period prior to 31.05.2003 for the purpose of calculating pension. Therefore, the impugned order is liable to be set aside and it is accordingly set aside. The respondents herein are directed to



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calculate the services of the petitioner from 07.11.1997 for pension and disburse the benefits within a period of twelve weeks from the date of receipt of a copy of this order.

11. With the above said observations, this Writ Petition stands allowed to the extent as stated above. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Secretary,
Department of Finance (Pension),
Fort St. George, Chennai – 600 009.
2. The Secretary,
Department of School Education,
Fort. St. George, Chennai – 600 009.
3. The Accountant General,
Office of the Accountant General,
261, Anna Salai, Chennai – 600 018.



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4. The Director of School Education,
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R.VIJAYAKUMAR,J.

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