



WEB COPY



W.P.No.4058 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2025

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.4058 of 2023

and

W.M.P.No.4106 of 2023

1. P. Syed Sultan Bibi
2. A.Cyril Agnes Mary

.. Petitioners

Versus

1.The Director of Elementary Education,
DPI Campus,College Road, Chennai – 600 006.

2. The Joint Director of Elementary Education,
DPI Campus, College Road, Chennai – 600 006.

3. The Chief Educational Officer,
Thiruvallur District, Thiruvallur.

4. The District Educational Officer (Elementary)
Ponneri @ Cholavaram,
Thiruvallur District.

5. The Block Education Officer-I,
Puzhal, Chennai – 600 066.

..Respondents

Prayer: This petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Respondents to forthwith pay salary to the petitioners for the period from 01.06.2017 to 28.02.2019 and pass orders.



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For Petitioner
For Respondents

: Mr.K. Selvaraj
: Mr.S.Prabhakaran
Government Advocate

ORDER

This petition is filed to issue a Writ of Mandamus directing the Respondents to forthwith pay salary to the petitioners for the period from 01.06.2017 to 28.02.2019 and pass orders.

2.The facts of the case are that the petitioners were working as Secondary Grade Teachers at K.M.S.Muthukrishna Aided Primary School, Kaladipet, Chennai. Since the management of the said school could not run the school, the Management decided to close down the school. The second respondent permitted to close down the school and directed the 4th Respondent to deploy the teachers working in the said school to the schools in need by order dated 02.08.2016. Pursuant to which, the 4th respondent issued an order on 12.12.2016, deploying the first petitioner to St.Mary's Primary School, Arappakkam, Gummiddipoondi Union and the second petitioner to St.Joseph Primary School, Padiyanallur, Cholavaram Union. It is pertinent to note that although the petitioners had been relieved from the said school and had

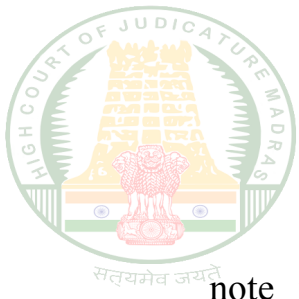


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reported for duty at the deployed schools as per the orders of the 4th Respondent dated 12.12.2016, the schools, to which they were deployed, refused to allow them to join duty, saying that they had already appointed teachers under the minority quota in the said schools. Therefore, the petitioners made representations on 10.03.2017 and 13.03.2017 to the 3rd respondent. However, the 3rd respondent did not consider the request of the petitioners. Aggrieved by the same, the petitioners filed W.P.No.347 of 2017 before this Court. The official respondents therein, filed a memo in the said writ petition on 21.02.2019, stating that there were two vacancies in the cadre of Secondary Grade Teachers at Deivasigamani Middle School, Thiruvottiyur, and they were ready to accommodate the petitioners in the said school. Based on the said memo, this Court vide order dated 21.02.2019, allowed the writ petition. However, there was a default in salary, due to which the petitioners have come up with this petition.

3. The learned counsel for the petitioners submitted that as per the orders of the fourth respondent, the petitioners reported for duty on 12.12.2016, but they were not not permitted to join duty. It is pertinent to

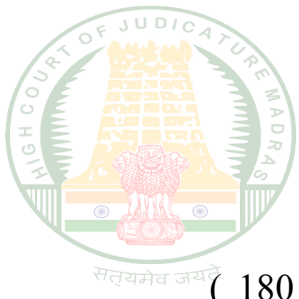


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note that only on 21.02.2019, the respondents filed a memo in W.P.No.347 of 2017 filed by the petitioners, wherein they stated that they were ready to accommodate the petitioners at Deivasigamani Middle School, Thiruvottiyur. Therefore, the interim period between 01.01.2017 to 28.02.2019 should be taken into account for continuity of service, and salary should be paid, as there was no fault on the part of the petitioners. Hence, prays to allow this petition.

4. The Government Pleader has filed a counter affidavit, wherein, it is stated that the writ petitioners were not serving duty from 01.01.2017 to 28.02.2019, and that they had given representation to regularize their services. He further submitted that, after a detailed observation based on the norms and rules in force, the 5th respondent passed an order in Na.KaNo.810/B1/2019 dated 28.09.2020, wherein it was calculated that the period from 02.01.2017 to 30.06.2017- (180 days) would be treated as unearned leave on private affairs, from 01.07.2017 to 31.08.2017-62 days as Earned Leave and from 01.09.2017 to 28.02.2019(one year and 6 months) as leave on loss of pay, with respect to the first petitioner, and the period from 02.01.2017 to 30.06.2017



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(180 days) as unearned leave on private affairs, from 01.07.2017 to 30.09.2017 (90 days) as earned leave, and from 01/10/2017 to 28.02.2019 (one year and 5 months) as leave on loss of pay with respect to the second petitioner. Therefore, there is no infirmity in the order passed by the 5th respondent vide its Na.Ka.No.819/B1/2019 dated 28.09.2020. Hence, prays to dismiss this petition.

5. Heard both sides and perused the materials available on record.

6. On a perusal of records, it is seen that the petitioners were not serving duty from 01.01.2017 to 28.02.2019. The core contention of the petitioners is that they had reported to duty as per the directions of the fourth respondent, but they were not permitted to join duty. Hence, the said period should be taken into consideration for the purpose of continuity of service, and salary should be paid, as there was no fault on the part of the petitioners. After the directions issued by this Court in W.P.No.347 of 2017 on 21.02.2019, the 5th respondent paid salary to the petitioners from 01.01.2017 to 31.05.2017. Hence, the salary is due from 01.06.2017 to 28.02.2019.



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7. At this juncture, the learned counsel for the petitioners submitted that from 01.07.2017 to 31.08.2017 for the first petitioner, and from 01.07.2017 to 30.09.2019 for the second petitioner was treated as Earned Leave, and the respondents paid earned leave salary for the said period after the filing of this writ petition. They further submitted that the dispute is only with regard to the period from 01.09.2017 to 28.02.2019(one year and six months) for the first petitioner, and from 01.10.2017 to 28.02.2019(one year and five months) for the second petitioner which was treated as leave on loss of pay and for which no salary was paid to the petitioners.

7. In view of the above facts, it is made clear that the petitioners were ready to join duty on 12.12.2016, but the respondents did not permit the petitioners to join duty. Furthermore, the District Educational Officer, Ambattur District passed an order only on 28.02.2019 deploying the petitioners to Deivasigamani Aided Middle School, Kaladipet, Thiruvottiyur, and directed the petitioners to join duty from 01.03.2019. Hence, there is a lapse on the part of the respondents also.



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8. Hence, in order to put a quietus to this issue, the respondents are directed to pay salary to the petitioners for the period which was treated as leave on loss of pay by the 5th respondent on 28.09.2020 in Na.Ka.No.819/B1/2019. The said exercise shall be completed within a period of sixteen weeks from the date of receipt of a copy of this Order.

9. With the above observations, this writ petition stands allowed. No order as to costs. Consequently, the connected miscellaneous petition is closed.

26.03.2025

Speaking order : Yes/No

Neutral citation : Yes/No

Index : Yes/No

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To

1. The Director of Elementary Education,
DPI Campus, College Road, Chennai – 600 006.
2. The Joint Director of Elementary Education,
DPI Campus, College Road, Chennai – 600 006.
3. The Chief Educational Officer, Thiruvallur District, Thiruvallur.
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