



W.P.No.19713 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2025

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.No.19713 of 2025

and

W.M.P.No.22113 of 2025

A.Albin Davamani

... Petitioners

Vs.

1. The Government of Tamil Nadu,
Rep. By its Secretary,
The Department of School Education,
Fort St.George, Chennai – 600 009.
2. The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.
3. The Joint Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.
4. The Chief Educational Officer,
Nizam Colony, Pudukkottai – 622 001.
5. The Head Master and Correspondent,
St.Arulanandar Hr.Sec.School,
Oriyur – 623 406.



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6. The Headmaster,
Government High School,
Lekkanapati, Odukkur Post,
Iluppur Tk,
Pudukkottai District – 622 504.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings dated 22.12.2023 in Na.Ka.No.119/2023 passed by the sixth respondent and quash the same, consequently direct the first to fourth respondents to re-fix the petitioner's initial scale of pay by taking into account the past service rendered by the petitioner as BT Assistant in the fifth respondent aided school from 17.03.1998 to 27.12.2011 and to grant arrears of salary including increments with all service and monetary benefit.

For Petitioners : Ms.K.Chandra

For Respondents : Mr.S.Prabhakaran,
Government Advocate

ORDER

This Writ Petition has been filed challenging the order dated 22.12.2023 in Na.Ka.No.119/2023, passed by the sixth respondent.

2. The learned counsel for the petitioner would submit that the sixth



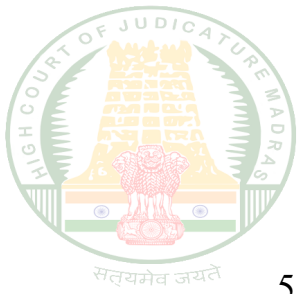
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respondent has rejected the petitioner's claim to consider her initial appointment as BT Assistant in the fifth respondent's school with effect from 17.03.1998. He would further submit that the sixth respondent ought to have considered the petitioner's claim for pay protection after she joined the Government School with effect from 28.12.2011. He would also submit that in a similar set of facts, the Division Bench of this Court in W.A.No.3868 of 2019, dated 16.10.2020, has granted the relief, and would submit that since the petitioner is a similarly placed person, she is entitled to have similar relief.

3. Per contra, the learned Government Advocate appearing for the respondents would strongly object to the said contention, and he would submit that now that issue is pending before the Larger Bench of this Court. However, the learned Government Advocate would fairly submit that there is no stay to the judgment passed in W.A.No.3868 of 2019.

4. I have given my anxious consideration to the submissions made on either side.

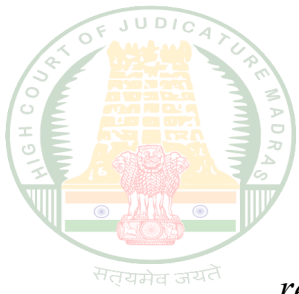


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5. The sum and substance of the petitioner's claim is pay protection, as provided under Fundamental Rule 22B, to protect her last drawn pay received in the Government-aided school when she was appointed in a Government school. In this connection, it is appropriate to extract the relevant portion of the judgment in W.A.No.3868 of 2019, dated 16.10.2020; the relevant paragraph is paragraph 12, which reads as follows:-

“12. According to the learned counsel for the respondent/writ petitioner, the appointment of the respondent as B.T. Assistant in the Government service, falls under the above said Clause 3(iv) relating to method of appointment. As per the said class, appointment shall also be made by way of transfer from any class or category in the service on an identical scale of pay. According to the learned counsel for the respondent/writ petitioner, prior to the appointment of the respondent/writ petitioner as B.T. Assistant, he was drawing Selection Grade Secondary Grade Assistant's pay, which is equivalent to that of the pay of a B.T.Assistant. By relying upon G.O.Ms.No.992, Education Department, dated 22.06.1979, it is contended that the service rendered by a Teacher in a School under the Corporation and Aided Agencies and also in schools under the control of Director of Backward Classes, Director of Harijan and Tribal Welfare prior to his or her resignation, termination, transfer or migration, shall be counted for



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reckoning the required period of 10 years of service for the purpose of granting Selection Grade in that post, excluding the period of break, if any, in such service. Therefore, as per the aforesaid G.O.Ms.No.992, dated 22.06.1979, the service rendered by the respondent-writ petitioner in the Aided School, shall also be counted for the purpose of granting Selection Grade in the post of B.T.Assistant. Above all, F.R.22.B adequately protects the pay of the respondent/writ petitioner. Even as per G.O.Ms.No.367, Education Department, dated 30.03.1984, the benefit of FR 22-B shall be conferred on the staff employed in all recognised schools under the management of Aided Agencies and local Bodies. Therefore also, the claim of the respondent-writ petitioner for re-fixation of his pay is well founded on the basis of the aforesaid Government Order and therefore, the learned counsel for the respondent prayed for dismissal of the Writ Appeal.”

6. As per the above judgment, the Division Bench of this Court has granted the relief to the petitioner under Fundamental Rule 22B, even to the employees who served in the aided school. In such view of the matter, this Court finds merits in the claim of the petitioner.

7. In view of the same, the impugned order dated 22.12.2023 is hereby



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set aside, and the sixth respondent is directed to consider the case of the petitioner in terms of the judgment passed by the Division Bench of this Court in W.A.No.3868 of 2019, within a period of six weeks from the date of receipt of a copy of this order.

8. In the result, this Writ Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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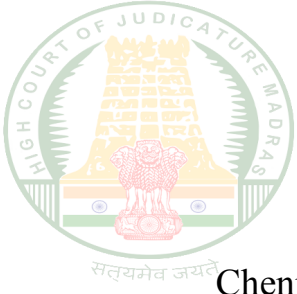
Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No

To

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C.KUMARAPPAN, J.

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