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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-11-2025

CORAM

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

**WP No. 18829 of 2023 and
WMP Nos.18063, 18067 & 22859 of 2024**

L.Isabel Sophia,
(PETITIONER NAME AMENDED
VIDE ORDER DATED 08.07.2025
MADE IN WMP.17946/2024 IN
WP.18829/2023)

Petitioner(s)

Vs

1. The State of Tamil Nadu
Rep. By its Principal Secretary to Government,
School Education Department,
Fort St.George, Secretariat,
Chennai -600 009.

2.The Director,
DPI Campus, College Road,
Chennai-600 006.

3.The Chief Educational Officer,
Chennai District,
Presidency Girls Higher Secondary School,
Spur Tank Rd, Egmore, Chennai-600 008.

4.The District Educational Officer,
Central Chennai, Saidapet,
Chennai-600 015.

5.The Correspondent,
St. Antony's Girls Higher Secondary School,
Mandaveli, Chennai - 600 028.

6.The Principal Accountant General (Tamil Nadu),
O/o. The Principal Accountant General,
AG's Office Complex, 361, Anna Salai,
Teynampet, Chennai - 600 018.



Respondent(s)

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 6th respondent in No. P22/1/12225691/ADK/676 dated 10.02.2023 and to quash the same and consequently directing the respondents to sanction retirement benefits to the petitioner including regular pension from the date of retirement on 28.02.2023 along with interest.

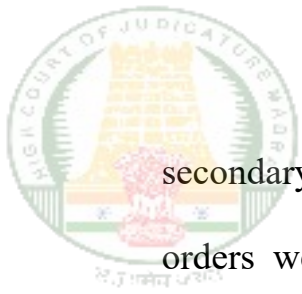
For Petitioner(s): Mr.G.Sankaran, Senior Counsel
for Mr.S.Nedunchezhiyan

For Respondent(s): Mrs.S.Mythreye Chandru
Special Government Pleader for
R1 to R4
Mr.P.Mano Rajan for R5

ORDER

This writ petition has been filed challenging the order passed by the sixth respondent, dated 10.02.2023, thereby concluded that the award of selection grade in the post of Secondary Grade Assistant shall be only on 01.06.2013 and accordingly, fixation of pay revised.

2.The case of the petitioner in brief is that the petitioner was appointed as Secondary Grade Teacher on 06.06.1997 and her appointment was duly approved by the fourth respondent on 29.09.1997. As per G.O.Ms.394, Education dated 12.09.1997, B.Ed. qualified candidates cannot be appointed in



secondary grade vacancies in High and Higher Secondary Schools. Similar orders were issued by the Government in G.O.Ms.No.559, Education dated 11.07.1995, which prohibited the appointment of B.Ed. qualified candidates in secondary grade vacancies in Primary and Middle Schools. Since the petitioner's appointment was made prior to the said Government Order, i.e., on 06.06.1997, her appointment was approved by the fourth respondent. However, the petitioner also underwent training regarding Child Psychology from 02.05.2003 to 31.05.2003. Only thereafter, her appointment was regularised under the time scale of pay. However, she was granted selection grade by calculating 10 years period from the date of her appointment i.e., from 06.06.1997.

3. When the petitioner's appointment was not regularised till the completion of Child Psychology training, she is not entitled for selection grade from the date of appointment. She is entitled for selection grade only from the date of her regularisation of service i.e., from 01.06.2003. After completion of ten years from 01.06.2003 i.e., on 01.06.2013, she was eligible for selection grade. Therefore, the sixth respondent has rightly ordered for revision of pay, however, the sixth respondent did not order for recovery of the excess amount. Insofar as recovery is concerned, the Hon'ble Supreme Court in ***Jagdish Prasad Singh Vs. State of Bihar and Others*** reported in ***2024 SCC Online SC 1909*** held as follows:



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23. In the case of *State of Punjab v. Rafiq Masih (White Washer)*, this Court held as under:

"18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v.) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

(emphasis supplied)

4.Hence, it is clear that there cannot be any recovery of the payment already made to the petitioner. It is not the case of the respondents that the



petitioner had wilfully suppressed or misrepresented the material facts for receiving the selection grade pay. The respondents have wrongly calculated the period of ten years and granted selection grade pay to the petitioner. Therefore, there cannot be any recovery from the petitioner for the excess amount paid to her. Insofar as the revision of pay is concerned, this Court finds no infirmity or illegality in the order passed by the sixth respondent.

5. Accordingly, this writ petition stands dismissed. The respondents are directed to revise the scale of pay of the petitioner and disburse the revised pensionary benefits within the period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

25-11-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To

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