



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-07-2025

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CORAM

**THE HONOURABLE MRS JUSTICE J. NISHA BANU
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

WA No. 2766 of 2022

1. A. Philomena
Secondary Grade Teacher, St.Sebastian
Aided Primary School, Kameswaram
East, Kameswaram Post, Nagapattinam
District

Appellant(s)

Vs

1. Government of Tamil Nadu
Rep by its Secretary to Government,
School Education Department,
Secretariat, Chennai 600009

2.The Director of Elementry Education
Nungambakkam, Chennai 600006

3.The District Elementary Educational
Officer
Nagapattinam District

4.The Assistant Elementry Educational
Officer
Keezhaiyur, Nagapattinam District

5.The Manager/Secretary
St.Sebastian Aided Primary School,
Kameswaram Street, Kameswaram
Post, Nagapattinam District

Respondent(s)

PRAYER Writ appeal filed under Clause 15 of Letters Patent to set aside the



order passed in Rev.Appln.No.47 of 2020, dated 05.01.2022 and thereby restore the order passed in WP.NO. 24787 of 2012, dated 03.08.2017.

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For Appellant(s): S.N. Ravichandran

For Respondent(s): Mr.J.C.Durairaj,
Additional Government Pleader
For R1 To 4

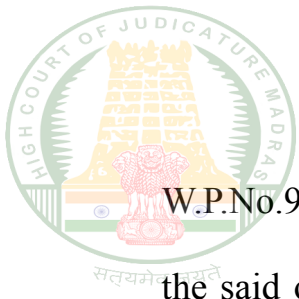
ORDER

(Order of the Court was made by J.Nisha Banu J.)

This writ appeal has been filed as against the order passed in Rev.Appln.No.47 of 2020, dated 05.01.2022 and thereby, to restore the order passed in W.P.No.24787 of 2012, dated 03.08.2017.

2. The brief facts leading to the filing of the writ appeal is as follows:

The appellant herein was appointed as Secondary Grade Teacher in the 5th respondent school on 18.09.1996, however, her appointment was not regularised, in view of the order passed by the Government in G.O.Ms.No.559, dated 11.07.1995. Thereafter, the third respondent, vide proceedings dated 28.07.2003, approved the petitioner's appointment as Secondary Teacher w.e.f. 02.06.2003. The said order was challenged by the appellant in W.P.No.24787 of 2012, seeking direction to the authorities concerned to approve her appointment as Secondary Grade Teacher from the date of her initial appointment on 18.09.1996. The learned Single Judge, taking into consideration various factors and also in the light of the decision of this court on the similar issue in

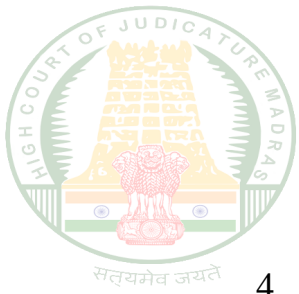


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W.P.No.9072 of 2005, dated 19.12.2007, allowed the writ petition. Challenging the said order, the Government has filed a Review Application No.47 of 2020 and it was allowed on 05.01.2022. The above said order is impugned herein in the present appeal.

3. The third respondent has drawn the attention of this Court to the written submission filed, stating that the appellant/ writ petitioner has no legal right to claim retrospective regulation of her illegal appointment and now filed the present appeal to achieve the benefit indirectly by way of questioning the orders passed in the review application on technical issues. When the appointment of the appellant itself is contrary to the government orders in G.O.Ms.No.559, dated 11.07.1995, the Writ Court, without considering the factual matrix of the case and other vital issues, has allowed the writ petition and hence, the review application has been filed.

3.1. The appellant/writ petitioner relied on the orders in G.O.Ms.No.122, Adi Dravidar Welfare Department dated 02.08.2005, G.O.Ms.No.113, dated 14.03.1997, G.O.(Ms).No.63, dated 01.04.1997, G.O.Ms.No.63, dated 01.04.1997 and G.O.Ms.No.5, dated 13.01.2000, all these orders relating to the Government schools teachers and hence, the appellant cannot take shelter under the concessions granted to them.

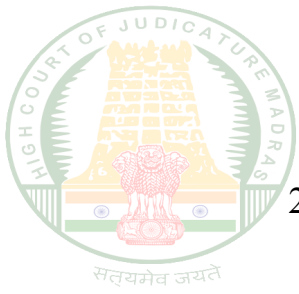


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4. Heard the learned counsel for the parties and perused the entire materials available on record.

5. A perusal of the order impugned passed by the learned Single Judge in Rev.Appl.No.47 of 2020 would disclose that reliance was placed mainly on the judgement passed in W.A (MD) Nos.74 of 2015 and 957 of 2016, dated 21.03.2018. In the said writ appeal, a Division Bench of Madurai Bench of this Court had upheld the validity of G.O.Ms.No.155 dated 3.10.2002 and observed that the order of 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. The observation made by the Division Bench in the said review application is as follows:

"5. When the same issue has been subsequently decided by a Division Bench of this Court as cited supra, wherein the Division Bench has elaborately discussed the government order as well as the earlier orders of this court and the respondents have not complied with the order passed by this court, following the Division Bench order of this court in W.A.(MD) Nos.74 of 2015 and 957 of 2016, dated 21.03.2018, the present review application is allowed and the respondents are directed to follow the directions issued by the Division Bench of this court in W.A.(MD) Nos.74 of 2015 and 957 of



2016, dated 21.03.2018."

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6. It is pertinent to note that subsequent to the said G.O.Ms.No.155, dated 3.10.2022, the Government had issued another G.O.Ms.No.122, dated 02.08.2005, regularising the appointment of Secondary Grade Teachers with the qualification of Graduate belonging to Schedule Castes and Schedule Tribes, from the date of their appointment to such post, after completing the Child Psychology training. Based on the above said G.O., a writ petition was filed by one Varadarajan in W.P.No.9072 of 2005 and it was allowed by this court by observing as follows:

"the petitioner shall be regularised with effect from the date of his appointment i.e. 28.03.1998 and accordingly, he is declared to be entitled to all consequential benefits and within a period of two months, the authorities shall implement the order of this court".

The said order was also upheld by the Hon'ble Supreme Court and it had reached finality.

7. It is contention of the third respondent that G.O.Ms.No.122, dated 02.08.2005 is applicable only to the Government school teachers and that the petitioner cannot take shelter under the concessions granted to them. However,



a perusal of records shows that the writ petitioner in W.P.(MD)No.9072 of 2005 (Varadarajan) was appointed as Secondary Grade Teacher in Ramakrishna Aided Middle School, Nachiarkoil, Thanjavur District, which is a government aided school and he was appointed as Secondary Grade Teacher on 28.03.1998, viz., after 1 1/2 years from the date of appointment of the petitioner.

8. In the instant case, the petitioner was appointed as a Secondary Grade Teacher in St.Sebastian Aided Primary School, Nagapattinam District, which is also a government aided school. When a similarly placed person, who was appointed subsequent to the date of appointment of petitioner, got the benefits of regularization of service from the date of his appointment, the petitioner cannot be deprived of the benefit of getting regularization from the date of her appointment on 18.09.1996 to 01.06.2003.

9. The learned Single Judge, while allowing the writ petition (W.P.No.24787 of 2012) filed by the appellant, discussed the issues in detail and rightly allowed the writ petition and we do not find any reason or infirmity to interfere with the above said well-reasoned order. Therefore, in the facts and circumstances of this case, we are of the view that the impugned order passed by the learned Single Judge in Rev.Appln.No.47 of 2020, dated 05.01.2022, citing the decision in W.A.No.74 of 2015, dated 21.03.2018 which upheld the



G.O.Ms.No.155, dated 3.10.2002 cannot be accepted and the same warrants interference of this court.

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10. Accordingly, this writ appeal is allowed and the impugned order passed in the Rev.appln.No.47 of 2020, dated 05.01.2022 is set aside and the order passed in W.P.No.24787 of 2012, dated 03.08.2017 is upheld. There shall be no order as to costs.

(J.NISHA BANU J.)

(M.JOTHIRAMAN J.)

22-07-2025

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Index: Yes/No

Internet: Yes

Neutral Citation: Yes/No

To

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Rep by its Secretary to Government,
School Education Department,
Secretariat, Chennai 600009

2. The Director of Elementary Education
Nungambakkam, Chennai 600006

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Kameswaram Street, Kameswaram
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**tttJ.NISHA BANU, J.
AND
M.JOTHIRAMAN , J.**

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