



W.P.No.2724 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

and

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

W.A.No.2724 of 2022

1.W.Ruben Franklin (Died)

2.J.Prakasi Bellarmine
W/o.Ruben Franklin

3.R.F.Sophia Pearlin
D/w.Ruben Franklin

4.R.F.Preethi
D/o.Ruben Franklin

(A1 died A2 to A4 are substituted
for A1 vide Court order dated 28.07.2025
in CMP No.11800/2025 in WA.2724/22
by JNBJ & MJRJ)

... Appellants

Vs.

1.Secretary to Government
Education Department
Fort St. George
Chennai 600 009



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2.The Chief Educational Officer
Dindugal District
Dindugal

3.The Head Master
The Government Higher Secondary School
Vembarpatti Post
Dindugal District

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent against the order dated 23.09.2022 in W.P.No.33150 of 2017, High Court of Madras, passed by His Lordship Mr.Justice S.M.Subramaniam.

For Petitioner : Mr.R.Subramanian

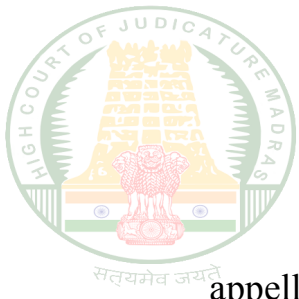
For Respondents : Mr.R.Neethi Perumal
Government Advocate

JUDGMENT

M.S.RAMESH, J.
and
R.SAKTHIVEL, J.

Pending the Writ Appeal, the 1st appellant, who was employed as B.T Assistant in the Government Higher Secondary School, Vembarpatty Post, expired and his legal heirs were impleaded as appellants 2 to 4.

2.The brief facts of the case is that when the deceased 1st

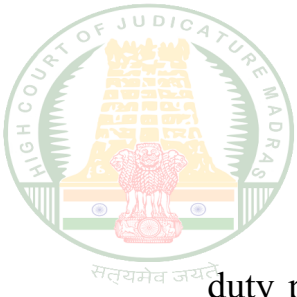


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appellant / teacher sought for regularisation of his services, he was terminated from service vide order dated 21.03.2006. This termination order was put under challenge before this Court in W.P.No.10040 of 2006. The Writ Court, vide its order dated 09.06.2008, had partly allowed the Writ Petition, by setting aside the termination order and directed the Government to consider the request of the teacher for regularisation of his services. The Government had also preferred an appeal before this Court in W.A.No.928 of 2008, which was dismissed on 09.07.2010, directing the authorities to pass orders reinstating the teacher without backwages, within a stipulated time. Pursuant to the order passed in the Writ Appeal, the teacher was also reinstated in services. Subsequently, through G.O.2D No.31, School Education Department, dated 09.07.2013, his services were also regularised with effect from 23.11.1990. The order of regularisation also records that on completion of the probation, the teacher would be entitled for annual increments.

3.On completion of the probation, the teacher had sought for treating the period of his service between 27.03.2006 and 28.07.2011 as



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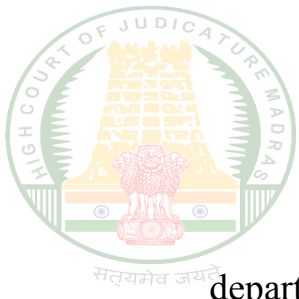
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duty period. Since his representations were not considered in time, he had filed the Writ Petition in W.P.No.33150 of 2017, seeking for issuance of a Mandamus to consider his representations seeking inclusion of the period between 27.03.2006 and 28.07.2011, as period of service and for the consequential benefits. The Writ Petition came to be dismissed on 23.09.2022, which order is under challenge before this Court.

4.The main contention of the learned counsel for the 1st appellant / teacher is that the crucial period between 27.03.2006 and 28.07.2011 has to be included as service period, since the services were regularised with effect from 23.11.1990.

5.Per contra, the learned Government Advocate representing the department, would submit that since the teacher was deprived of the arrears of salary for the said period, he would not be entitled for any service benefits which includes the annual increments.

6.We are not in agreement with the objections raised by the



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department. As pointed out earlier, initially when the teacher was terminated from services, the Writ Court had intervened and set aside the order of termination. When challenge was made to the order in the Writ Petition, the Coordinate Bench through orders passed in Writ Appeal No.928 of 2008 had dismissed the appeal with a specific direction for reinstating him without backwages. The deprivation of backwages was not by way of a punishment. On the other hand, the Coordinate Bench would have taken such a decision only because the concerned teacher was not performing duties during that particular period. Even otherwise, when the Government itself has regularised the services of the teacher with effect from 23.11.1990 and also holding that he would be entitled for all the annual increments on completion of the probation period, this period requires to be treated only as a service period. The learned Single Judge, however, has not taken note of these aspects and had rejected the teacher's claim. We respectfully defer with the reasonings adopted in the order passed in the Writ Petition.

7. Accordingly, the Writ Appeal stands allowed. Consequently,



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there shall be a direction to the respondents to pass appropriate orders by treating the service of Late Ruben Franklin, B.T. Assistant for the period between 27.03.2006 and 28.07.2011 as service period and extend all the family pensionary benefits, as well as the Death Cum Retirement benefits for the said period. Such order shall be passed within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs.

[M.S.R, J.]

[R.S.V, J.]

25.09.2025

kas

Index: Yes / No Neutral Citation
Speaking / Non Speaking

To.

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Education Department
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2.The Chief Educational Officer
Dindugal District
Dindugal

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Vembarpatti Post, Dindugal District



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