



WP(MD). No.3055 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 22.01.2025

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

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P. Kuthala Eswari

... Petitioner

versus

1. The Joint Director(Aided School),
Department of Elementary Education,
DPI Campus,
Chennai.
2. The Chief Educational Officer,
Tirunelveli District.
3. The District Elementary Educational Officer,
Tirunelveli District.
4. The Accountant General,
Accounts and Entitlement Department,
261, Anna Salai,
Nandhanam,
Chennai.
5. The Secretary,
ICI Primary School,
Elanji, Tenkasi Taluk,
Tirunelveli District.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Mandamus, to direct the 5th respondent to pay salary for the month of February till March 10 of 2015 and regularize the petitioner's service from the date of suspension to the date of reinstatement i.e., from 11.3.2015 to 16.8.2019 as duty period and pay the salary and yearly increments since 2012 and other service and monetary benefits in accordance with the 7th Pay Commission with 12% interest in the light of order passed by the Hon'ble Apex Court in ***Deepali Gundu Surwase Vs Kranti Junior Adhyapak Mahavidhalaya (D.ED) and others*** reported in ***(2013) 10 SCC 324*** and thereby direct him to send her pension proposal promptly to the 1st and 4th respondent within a stipulated time.

For Petitioner	: Mr.G.Thalaimutharasu
For R1 to R3	: Mr.K.Balasubramani, Special Government Pleader
For R4	: Mr.P.Gunasekaran
For R5	: Mr.M.Mahaboob Athiff

ORDER

The petitioner is a retired Teacher serving as Secondary Grade Teacher in the 5th respondent Primary School. The 5th respondent School is a Non-Minority Government Aided School governed by the Tamil Nadu Recognized Private School (Regulation) Act, 1973. The petitioner had some issue with the School Management and therefore, she was



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placed under suspension by the 5th respondent by his proceedings dated 11.03.2015. The suspension period was also extended without obtaining any prior permission from the competent authority as required under Section 22(3)(b) of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973. Subsequently, the petitioner was also dismissed from service, by proceedings dated 10.02.2016. Considering the fact that the procedure as completed under the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973, has not been followed while initiating disciplinary proceedings against the petitioner, the 3rd respondent, by his order dated 08.08.2016, set aside the order of dismissal passed by the 5th respondent dated 10.02.2016.

2. Thereafter, the petitioner has filed a writ petition in W.P. (MD)No.22760 of 2016 before this Court seeking a direction to the 5th respondent to reinstate the petitioner into service and to pay backwages and other monetary benefits. This Court, by order dated 04.02.2019, disposed of the writ petition with a direction to the 1st respondent to dispose of the appeal preferred by the 5th respondent against the order of



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the 3rd respondent dated 08.08.2016 within a stipulated time. Pursuant to the order of this Court, the 1st respondent conducted an enquiry and set aside the order of dismissal and also directed the 5th respondent to reinstate the petitioner into service, vide his proceedings dated 14.06.2019. Thereafter, the petitioner has been reinstated in service, but, she was not paid with monetary benefits. Therefore, the petitioner has filed a contempt petition before this Court in Cont.P.(MD)No.778 of 2019. Only thereafter, the 5th respondent has paid a sum of Rs.2,60,394/- as subsistence allowance, vide his proceedings dated 16.08.2019. The petitioner with a grievance that the remaining service and monetary benefits, i.e. from February to 10th March 2015 and 11.03.2015 to 16.08.2019 as per 7th Pay Commission have not been paid, has filed the present writ petition for a Mandamus, directing the 5th respondent to regularize her period of suspension and to pay the salary for the period of suspension.

3. Today, when this writ petition is taken up for hearing, the learned counsel appearing for the School Management submits that the



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5th respondent suffered with cancer and died due to his disease. In view of the ailment suffered by the 5th respondent, the School Management has not settled the amount to the petitioner. Now, the present administration of the School Management has been taken over by the wife of the 5th respondent. The learned counsel further submits that he advised the present management to take a proper decision on the claim of the petitioner and on his advice, the School Management has taken a decision and passed a resolution to regularize the period of suspension of the petitioner between 11.03.2015 and 15.08.2019 and a necessary proposal has also been sent to the Government for payment of the required salary to the petitioner.

4. The learned Special Government Pleader submits that though the 5th respondent School is an Aided School, they have passed the orders of suspension, extension of suspension period and also the order of dismissal from service, without obtaining any approval as required under the provisions of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and therefore, the Government is not liable to pay the amount and the School Management has to pay the amount.



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WEB COPY 5. This Court considered the rival submissions made.

6. It appears that there was some dispute between the petitioner and the School Management and therefore, she was placed under suspension and subsequently, she was dismissed from service, vide proceedings dated 10.02.2016. The above orders have been passed by the School Management without obtaining any prior approval as required under the provisions of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973. Therefore, the 3rd respondent, by order dated 08.08.2016, set aside the order of dismissal passed by the 5th respondent and the same was confirmed by the 1st respondent, by proceedings dated 14.06.2019.

7. It appears that the School Management has realized its mistake and is now prepared to settle the issue, for which, a resolution has also been passed to regularize the period of suspension of the petitioner between 11.03.2015 and 15.08.2019.

8. This Court places its appreciation to Mr.Mahaboob Athiff,



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learned counsel appearing for the 5th respondent School for having advised the School Management in a proper manner.

9. In view of the resolution having been passed by the School Management, this writ petition is disposed of with a direction to the 5th respondent/School Management to settle the arrears of salary as per 7th Pay Commission to the petitioner, within a period of three months from the date of receipt of copy of this order on equal installments. No costs.

22.01.2025

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NCC : Yes / No.
Index : Yes / No.
Internet:Yes / No.

To

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Department of Elementary Education,
DPI Campus,
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2. The Chief Educational Officer,
Tirunelveli District.

B.PUGALENDHI, J.

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