



W.A(MD) Nos.1782 & 1784 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 07.07.2025

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A(MD) Nos.1782 & 1784 of 2025

M.Marudhanayagam

**... Appellant / Petitioner
in W.A.(MD)No.1782 of 2025**

P.Kalaiyarasi

**... Appellant / Petitioner
in W.A.(MD)No.1784 of 2025**

Vs.

**1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
School Education (R1) Department,
Secretariat, Chennai-9.**

**2.The Director of School Education,
College Road,
Chennai-6.**

**3.The District Educational Officer,
Musiri, Trichy District.**

**4.The Chief Educational Officer,
Trichy District.**

**... Respondents / Respondents
in both Writ Appeals**



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COMMON PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order passed by this Court in W.P.(MD)Nos.25524 & 25525 of 2018 dated 07.07.2023 and allow the writ appeal.

For Appellant : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.C.Venkatesh Kumar
(in both Writ Appeals) Special Government Pleader

COMMON ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

The writ petitioner in W.P.(MD)No.25224 of 2018 and the husband of the petitioner in W.P.(MD)No.25225 of 2018 were appointed as watchman on contingency basis in the year 1997. Vide G.O.Ms.No. 367, School Education Department, dated 20.08.1997, they were regularised with effect from 01.04.1983. However, the benefit of the G.O was not extended to them. They therefore filed W.P.(MD)No.25224 of 2018 and W.P.(MD)No.25225 of 2018. The learned single Judge vide order dated 07.07.2023 dismissed these writ petitions. Aggrieved by the same, these writ appeals have been filed.



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3. Though the contentions advanced by the learned counsel for the appellants are quiet persuasive, we are not able to agree with him. This is for more than one reason. As rightly pointed out by the learned single Judge, the appellants who retired some time in the year 2008 chose to agitate their claim full ten years later. It is well settled that the writ Court should not lose sight of the doctrine of laches. That is why, the learned Judge held that the writ petitioners cannot be allowed to revive a stale claim. Even on merits, the appellants may not have a case. The similarly placed individuals had earlier moved the writ Court way back in the year 2008. The writ petitions were allowed. The writ appeal filed by the State was dismissed only on the ground of delay. Subsequently, the review application was filed. The Hon'ble Division Bench vide order dated 03.07.2015 held as follows:-

“7. Perusal of G.O.Ms.No.367, School Education (R.1) Department. dated 20.08.1997 shows that taking note of the services of the respondent and others, Government have issued the above said Order, bringing the respondent and other similarly placed persons, to time scale from the respective dates, noted in the Government Order. Go.Ms.No.367, School Education (R.1) Department, dated 20.08.1997 also shows that



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the respondent was one of those, employed, on contingent basis in Government Higher Secondary School, Ayyampalayam, Tiruchirappellai District. He was appointed on 16.05.1977 on such basis. By the aforesaid order, his services have been brought to time scale from 01.04.1983. Contention of the learned Special Government Pleader is that G.O.Ms. No.367, School Education (R.1) Department, dated 20.08.1997, was not challenged by the respondent, is not disputed. However, material on record, discloses that vide Letter No.6015/ A.1/99, dated 07.10.1999, the District Educational Officer, Musiri has regularised the service of the petitioner from 05.05.1998 and when the Headmaster, Government Higher Secondary School, Pulivalam, sent a letter dated 24.12.2007, for retrospective regularisation of the respondent from 01.04.1983, vide proceedings in O.Mu. No.9913/A.1/2007, dated 29.01.2008, the District Educational Officer, Musiri, has rejected. Proceedings in O.Mu.No. 9913/A.1/2007 of the District Educational Officer, Musiri, dated 29.01.2008, has been challenged in W.(HD) No. 2392 of 2008. One Mr.Israel, has filed W.P(HD) No.12258 of 2009, challenging the proceedings regarding regularisation. Both the writ petitions filed by the petitioner and Israel, have been allowed by a common order dated 01.08.2011. Against the order passed in V.P(MD) No.12258 of 2009 filed by Israel, on appeal has been filed in W.A(MD) No.1158 of 2013 and that the same has been dismissed on 03.02.2014. Thereafter, Special Leave Petition No.17267 of 2014 has been filed and that the same has also been dismissed. Though Mr. D. Selvanayagam,



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learned counsel for the respondent submitted that the Government have issued G.O(Ms) No.194, Higher Education (C2) Department, dated 24.11.2014 implementing the order made in V.A (MD) No.1158 of 2013, dated 03.02.2014, in so far as Israel is concerned and therefore the same yardstick should be applied to the case of the respondent also, this Court is not inclined to accept the said submission for the reason that the above said Government Order has been issued only by way of implementation of the Hon'ble Division Bench directions with a rider that the concession given to Thiru.C.Israel shall not be extended to similar persons in future and in case if any claim by citing this case arises, it shall not be entertained. It can also be deduced that the respondent is aware of the directions issued in the Government Order. Perusal of documents shows that admittedly G.O.Ms.No.367, School Education (R.1) Department, dated 20.08.1997 has not been challenged. It is well settled legal position that mandamus cannot be issued to set aside an order passed by the competent authority. Indirectly, the respondent cannot seek for a mandamus, which would have the effect of setting at naught a Government Order. Writ of mandamus and certiorari are conceptually different. For the reasons stated supra, we deem it fit to allow the Review Application and accordingly, this Review Application is allowed. Delay in filing W.A(MD)S.R.No.24829 of 2013 is condoned and Registry is directed to number the writ appeal and order is passed in the Review Application.”



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4. When similarly placed individuals had been denied relief, it would not equitable to grant relief to the present appellants herein. We concur with the approach adopted by the learned single Judge. The writ appeals are dismissed. No costs.

(G.R.S., J.) (K.R.S., J.)
07.07.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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To

- 1.The Secretary to Government,
School Education (R1) Department,
Secretariat, Chennai-9.
- 2.The Director of School Education,
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- 3.The District Educational Officer,
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- 4.The Chief Educational Officer,
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