



W.P.(MD)No.16391 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.03.2025

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THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD) No.16391 of 2019

R.Chithra Sugirtha Santhi

... Petitioner

vs.

1.The Secretary to Government,
School Education Department,
St.George Fort,
Chennai.

2.The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.

3.The Chief Educational Officer,
Kanyakumari District,
at Nagercoil.

4.The District Educational Officer,
Thiruvattar,
Kanyakumari District 629 175.

5.The Headmaster,
Yettacode Higher Secondary School,
Yettacode,
Veeyanoor Post,
Thiruvattar,
Kanyakumari District.

... Respondents



W.P.(MD)No.16391 of 2019

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 3rd respondent to regularize the service of the petitioner as secondary grade teacher from the date of appointment that is from 01-07.2002 and to pay the arrears of salary from 01-07-2002 to 31-05-2006 and to compute the service from 01-07-2002 to 31-05-2006 rendered by the petitioner in the 5th respondent school for the pensionary and other monetary benefits by including the petitioner in the old pension scheme by considering the representation of the petitioner dated 04.02.2019.

For Petitioner :Mr.S.C.Herold Singh

For Respondents :Mr.K.R.Badurus Zaman
Government Advocate

ORDER

The writ petition has been filed to consider the representation of the petitioner dated 04.02.2019.

2.It is the case of the petitioner that after completing 12th std., during 1983, she studied Teacher Training Course and completed the same in 1988. The fifth respondent school is a religious minority institution duly recognized by the Educational Department, receiving

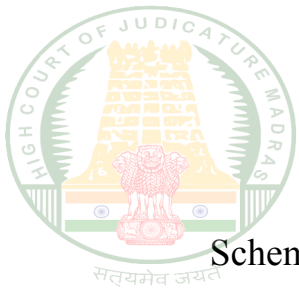


W.P.(MD)No.16391 of 2019

grant-in-aid from the State Government. There was a vacancy in the fifth respondent school due to the retirement of one C.Vasanth Kohilam, who was working as Secondary Grade Teacher. Hence, she made an application to the fifth respondent school for an appointment to the said post. After considering her eligibility, she was appointed as Secondary Grade Teacher with effect from 01.07.2002.

3.While she was in service, she joined B.A.(Sociology) and successfully completed the same during June 2010. Thereafter, she studied M.A.(Sociology) and successfully completed the same during June, 2014. After considering her services, the fifth respondent school sent a proposal to approve her appointment. In pursuant to the proposal made by the fifth respondent school, the fourth respondent/the District Educational Officer, Thiruvattar, approved her appointment with effect from 01.06.2006 instead of from the date of her appointment ie., on 01.07.2002.

4.The Government of Tamil Nadu introduced a new pension scheme on 01.04.2003. The scheme known as Contributory Pension



W.P.(MD)No.16391 of 2019

Scheme. According to the said scheme, the employees, who had joined the service on or after 01.04.2003, are eligible for pension. She was appointed with effect from 01.07.2002. As such, she is entitled to receive pension under the regular pension scheme, which is applicable to the employees, who joined prior to 01.04.2003, because there is a continuity of service for her. Therefore, she sent a representation to the respondents to regularize her service from the date of her initial appointment ie., from 01.07.2002. Hence, this writ petition.

5.The learned counsel appearing for the petitioner would submit that the writ petition has been filed seeking a Writ of Mandamus to consider the representation submitted by the petitioner. Since the petitioner was appointed in the post of Secondary Grade Teacher on 01.07.2002 and if the service is regularized from the date of her initial appointment, she would be entitled to get pension benefits.

6.*Per contra*, the learned Government Advocate for the respondents would submit that the petitioner's appointment on the basis of Junior Grade Secondary Grade Teacher was approved by the fourth



W.P.(MD)No.16391 of 2019

WEB COPY

respondent/District Educational Officer with effect from 01.07.2003 and not from 01.07.2002 as stated by the petitioner.

7.This Court has considered the submission made on either side and perused the available records.

8.According to the petitioner, on 01.04.2003, the Government of Tamil Nadu introduced a new pension scheme, known as Contributory Pension Scheme. According to the said scheme, the employees, who had joined the service on or after 01.04.2003, are eligible for pension, as per the said scheme only. According to the petitioner, she was appointed with effect from 01.07.2002. As such, she is entitled to receive pension under the regular pension scheme, which is applicable to the employees, who joined prior to 01.04.2003, because there is a continuity of service for the petitioner.

9.It is pertinent to mention that the regularization cannot be claimed as a right. Having accepted the conditions of appointment, at the



W.P.(MD)No.16391 of 2019

time of appointment, now cannot turn around and claim the time scale of pay or regularization from the date of initial appointment.

10.The writ petitioner did not raise any effective objection as to the date of appointment and was silent over 14 years and now is raising fag end of her retirement with a view to gain the pension benefit.

11.The learned counsel for the petitioner would submit that limited prayer sought for in this writ petition is to consider the representation submitted by the writ petitioner by the authorities concern.

12.Therefore, without going into the merits of the case, this Court is inclined to issue a direction to the fourth respondent herein. The fourth respondent is directed to consider the representation of the petitioner dated 04.02.2019 on merits and in accordance with law, if there is no legal impediment, within a period of 12 weeks from the date of receipt of a copy of this order. It is made clear that this Court has not gone into the merits of the matter.



W.P.(MD)No.16391 of 2019

WEB COPY 13. With the aforesaid directions, the Writ Petition stands disposed of. No costs.

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

06.03.2025

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W.P.(MD)No.16391 of 2019

M.JOTHIRAMAN, J.

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W.P.(MD)No.16391 of 2019

06.03.2025