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W.P.(MD) No.17392 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.17392 of 2021

and

W.M.P.(MD) No.14278 of 2021

G.Pathima Mary

... Petitioner

-vs-

1.The District Education Officer
Office of the District Education Officer
Manapparai, Trichy District

2.The Block Education Officer
Block Education Office
Manikandam Union
Trichy District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records relating to the impugned proceedings bearing O.Mu.No.2416/A4/2020 dated 19.08.2020 issued by the 1st respondent and quash the same and consequently direct the respondents to re-fix her pay from 15.07.2009 by taking note of the last pay of



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the petitioner before her migration to the Government service and also fix Special Grade Pay as on 02.08.2018 on this revised pay scale and pay arrears of differential pay to her on such re-fixation.

For Petitioner : Mr.M.Gnanagurunathan

For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings of the first respondent, dated 19.08.2020, rejecting the petitioner's request for re-fixation of her pay from 15.07.2009 by taking note of her last pay before her migration to the Government service and to fix special grade pay as on 02.08.2018 on the revised pay scale and to pay arrears of differential pay to her on such re-fixation of pay.

2. The case of the petitioner is that she was appointed initially in an Private Aided School, namely, Little Flower Middle School, Palani, on 20.02.1998, as a Secondary Grade Teacher. She had worked there as a Secondary Grade Teacher upto 14.07.2009. The petitioner was given selection



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grade in the post of Secondary Grade Teacher in the said School on 20.02.2008. Thereafter, she has got appointment in the Government School as Secondary Grade Teacher by proceedings dated 15.07.2009. On such appointment, the scale of pay of the petitioner was fixed at Rs. 5300+20200+2800 in the pre-revised scale, which was made by way of the VI Pay Commission recommendation. Accordingly, the petitioner was paid Rs. 14,630/- as basic pay with applicable grade pay, which was lower than the one she was drawing before her migration. The petitioner is presently working in the Panchayat Union Primary School, K.K.Nagar, Trichy, from 06.08.2016. She migrated from the Private Aided School to the Government School and was appointed in the Panchayat Union Middle School on 15.07.2009 without any break in service.

3. According to the petitioner, the Director of Elementary Education, by his proceedings dated 09.07.2007, has clarified that the fixation of pay should be as per the Government Order in G.O.Ms.No.1296, Department of Education, Science & Technology, dated 19.06.1982. According to the petitioner, the Government Order in G.O.Ms.No.1580, Education Department, dated 18.10.1969, had clearly stated that the pay that



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was last drawn by a Teacher in the previous school shall be allowed to him / her in the new school, in which he / she joins subsequent to his / her resignation or transfer, as the case may be.

4. Further, according to the petitioner, as per the Government Order in G.O.Ms.No.1296, Department of Education, Science & Technology, dated 19.06.1982, the Selection Grade Secondary Grade Teachers, if they migrate from one Management to a different Management, be allowed the minimum of the time scale of pay of Selection Grade Secondary Post, if they are appointed in a Secondary Grade post. According to the petitioner, since she had worked as a Secondary Grade Teacher in the Private Aided School and migrated to the Government School as a Secondary Grade Teacher, there should not be any difference in the pay scale. However, according to the petitioner, the respondents have not applied the said Government Orders and simply fixed a sum of Rs.5200/- as basic pay from the date of her joining in the Government School in the Secondary Grade post, which, according to the petitioner, is against the aforesaid Government Orders.



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5. Aggrieved by the said wrong fixation of pay, the petitioner submitted a representation to the second respondent during June, 2020, through the Headmaster of the School and the second respondent had also forwarded the same to the first respondent by letter dated 25.06.2020. However, under the impugned order, the first respondent has rejected the request of the petitioner. Aggrieved by the same, this writ petition has been filed.

6. A counter affidavit has been filed by the respondents reiterating the contents of the impugned order. According to the respondents, the petitioner has resigned from the Private Aided School and joined in the Government School as a new appointment through the Employment Exchange. Therefore, the petitioner's appointment in the Government School is entirely a fresh appointment and it cannot be considered as a continuous service. Hence, the prayer sought for by the petitioner is not maintainable as her claim for re-fixation of her scale of pay on the basis of her past service rendered in the Private Aided School is legally untenable.



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7. The respondents have also categorically contended in their counter affidavit that having resigned from the Private Aided School, the appointment of the petitioner in the Government School is a fresh appointment and therefore, the past service rendered by her in the Private Aided School stands forfeited for the purpose of calculating the her number of years of service.

8. According to the respondents, the service of the petitioner is governed by the Tamil Nadu Educational and Subordinate Service Special Rules, as per G.O.Ms.No.753, School Education Department, dated 15.07.1985. Therefore, according to the respondents, the past service of the petitioner rendered in the Private Aided School and her subsequent service in the Government School are governed by two different Service Rules and therefore, the claim of the petitioner for pay protection is untenable.

9. The respondents have also stated in their counter affidavit that the Government Orders in G.O.Ms.No.1580, Education Department, dated 18.10.1969, G.O.Ms.No.992, Education Department, dated 22.06.1979 and G.O.Ms.No.1296, Department of Education, Science & Technology, dated



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19.06.1982, relied upon by the petitioner are applicable only to the teachers, who are migrated from one Aided School Management to another Aided School Management and do not apply to the teachers, who have migrated from one Aided School Management to the Government School.

10. Learned counsel for the petitioner, in support of his contentions, drew the attention of this Court to a Division Bench Judgment of this Court dated 10.07.2023 rendered in W.A.No.3055 of 2019, in the case of the ***Director of Elementary Education Officer and others vs. D.Selvarosebai.*** and would submit that, as seen from Paragraph No.11 of the said decision, it is clear that whatever be the Department under which a teacher is working, may be a Government School or Panchayat Union School or Municipality or Corporation School or Aided School or even Backward Class / Harijan and Tribal Welfare School, prior to his / her resignation or termination or transfer or regularisation, the service rendered by such teacher in those schools shall be taken into account for the purpose of conferring selection grade or special grade after 10 / 20 years respectively. Therefore, according to the learned counsel for the petitioner, as held in the said Division Bench Judgment, the petitioner is entitled for the consequential prayer sought



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for in this writ petition and therefore, the impugned order rejecting the petitioner's request has to be quashed by this Court.

11. On the other hand, learned Special Government Pleader appearing for the respondents drew the attention of this Court to another Division Bench Judgment of this Court, dated 24.03.2025 rendered in W.A. (MD) No.686 of 2022, in the case of the ***State of Tamil Nadu and others vs. A.Joseph Sebastian*** and would submit that it is clear from the said decision that when the appointment conditions are unambiguous and the said appointment order issued by the Government remained unchallenged and the petitioner having accepted the appointment order and it was implemented, now she cannot turnaround and claim the benefit of the services rendered by her in the Private Aided School based on the contract entered into between her and the Management of the Private Aided School. In particular, learned Special Government Pleader referred to Paragraph No.10 of the said decision.

12. In the case on hand, admittedly, even at the time of being appointed as a Government Teacher in the year 2009, there was a pay disparity between the pay received by her at the time of entering into the



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Government service and the last drawn pay received by her when she was working in the Private Aided School. The appointment order issued by the Government also contained the terms and conditions of the appointment. The appointment order was issued by the Government in the year 2009. The petitioner accepted the appointment and continued to work in the Government School and raised the grievance of pay disparity only in the year 2020, when she first gave a representation to the respondents requesting them to grant the relief as prayed for in her representation, which is also the subject matter of the relief sought for in this writ petition. After almost 11 years from the date when the petitioner became a Government servant, she wanted to redress her grievance.

13. The petitioner relies upon certain Government Orders, more particularly, Government Orders in G.O.Ms.No.1580, Education Department, dated 18.10.1969, G.O.Ms.No.992, Education Department, dated 22.06.1979 and G.O.Ms.No.1296, Department of Education, Science & Technology, dated 19.06.1982, in support of the relief sought for in this writ petition.



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14. Learned counsel for the petitioner also relied upon the Division Bench Judgment of this Court dated 10.07.2023 rendered in W.A.No. 3055 of 2019, in the case of the **Director of Elementary Education Officer and others vs. D.Selvarosebai** and would submit that after discussing the aforesaid Government Orders, the relief, as sought for by the petitioner, was granted to the respondent in the said writ appeal. Therefore, according to the learned counsel for the petitioner, the same yardstick has to be applied in the present case and the relief sought for in this writ petition has to be granted in favour of the petitioner.

15. However, learned Special Government Pleader appearing for the respondents drew the attention of this Court to the recent decision of the Division Bench of this Court, dated 24.03.2025 rendered in W.A.(MD) No.686 of 2022, in the case of the **State of Tamil Nadu and others vs. A.Joseph Sebastian** and relying upon the said decision, he would submit that the order of appointment being a contract and a fresh appointment is made, the petitioner is bound by the conditions stipulated in the order of appointment and more so, since the petitioner has not chosen to challenge the said conditions, but accepted the conditions and joined the Government service,



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the question of seeking the relief as prayed for in this writ petition, without challenging the said conditions, does not arise.

16. Learned Special Government Pleader appearing for the respondents also would submit that as per the said decision, once an employee undergoes a transfer by way of a recruitment to a different cadre or to a different service, the employee loses his lien in the parent cadre / service. Therefore, according to him, such induction has distinct consequence on the career of the employee different from what would have been the normal course had he continued in the parent service.

17. The following are the undisputed facts:

- (a) The petitioner joined the Government service as a Government Teacher on 15.07.2009.
- (b) The appointment order issued by the Government contains the terms and conditions.
- (c) The terms and conditions were never challenged by the petitioner.



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- (d) The petitioner received lesser salary as a Government Teacher in the year 2009, when she joined the Government service, though she was drawing higher salary in the Private Aided School prior to her joining the Government service.
- (e) The petitioner was working in the Government School right from 2009 onwards and only through her representation given in the month of June, 2020, she has sought for redressal of her grievance, as prayed for in this writ petition.
- (f) Only after a lapse of almost 11 years from the date when the petitioner became a Government Teacher, she has sought for redressal of her grievance, as prayed for in this writ petition.
- (g) No reason has been given in the affidavit filed in support of this writ petition as to the inordinate delay on the part of the petitioner for seeking redressal of her grievance.



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Therefore, this Court is of the considered view that this writ petition cannot be entertained, on the ground of laches on the part of the petitioner to redress her alleged grievance.

18. This Court has also considered the Division Bench Judgment of this Court dated 10.07.2023 rendered in W.A.No.3055 of 2019, in the case of the ***Director of Elementary Education Officer and others vs. D.Selvarosebai***, relied upon by the learned counsel for the petitioner. However, as seen from from the said decision, the issue as to whether a Government servant, who has accepted the terms and conditions of the appointment and who did not choose to challenge the said terms and conditions, is allowed to seek for pay fixation by taking into account his / her past service in the Private Aided School was not the subject matter of consideration in the said decision. The question of laches was also not the subject matter of consideration in the said decision.

19. However, in the recent decision of the Division Bench of this Court, dated 24.03.2025 rendered in W.A.(MD) No.686 of 2022, in the case of the ***State of Tamil Nadu and others vs. A.Joseph Sebastian***, relied upon



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by the learned Special Government Pleader appearing for the respondents, various judgments were considered, which includes the Division Bench Judgment of this Court, dated 12.10.2023, rendered in W.P.(MD) No.1805 of 2023, in the case of ***Esakkiraj vs. The Chief Educational Officer, Chief Education Office, Tirunelveli, and others***, wherein, it has been held as follows:

“10. Relationship between Employer and Employee is the contract. Service conditions stipulated and agreed by the employees are binding on them. So also, the Fundamental Rules and Service Rules on appointment into Government Services are applicable and binding. In the present case, the order of appointment issued to the appellant dated 24.11.2012 unambiguously stipulates the pay band in which the appellant was appointed and the commencement of probation and other conditions. Order of appointment being a contract and a fresh appointment is made, the appellant is bound by the conditions stipulated in the order of appointment and more so, the appellant has not chosen to challenge the said conditions but accepted the conditions and joined into Government Services and only after declaration of probation the writ proceedings are instituted claiming the benefit of Selection Grade for the services rendered by him in a Private Aided School. Conditions stipulated in the order of appointment, dated



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24.11.2012, reveals that the appellant was appointed in the time scale of pay of Rs.5200-200 + 2800 Grade Pay. The salary and allowances will be paid from the date of joining. Probation period of two years is contemplated under the relevant Rules. When the appointment conditions are unambiguous and the said appointment order remained unchallenged and the appellant accepted the appointment order and it was implemented, now he cannot turnaround and claim the benefit of services rendered by him in a Private Aided School based on the contract between management of the Private Aided School and the appellant.”

20. The case on hand is identical to the case of ***Esakkiraj vs. The Chief Educational Officer, Chief Education Office, Tirunelveli, and others***, referred to supra. In the instant case also, the petitioner was paid lesser pay when she joined the Government service as a Teacher in the year 2009 than what she was drawing in her past service as a Teacher in the Private Aided School. The petitioner also did not challenge the terms and conditions of the appointment as per the Government Order issued in favour of the petitioner in the year 2009. Only in the year 2020, a representation was made by the petitioner seeking for re-fixation of her pay by taking into account



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her past service as a Teacher in a Private Aided School, which has been rightly rejected under the impugned order.

21. Therefore, this Court is of the considered view that both on the ground of laches as well as on the ground that the petitioner did not choose to challenge the terms and conditions of her appointment, when she was issued with an appointment order in the year 2009 and after having accepted the appointment and continued to work without any demur till 2020, when for the first time she made a representation seeking for revision of pay, the question of entertaining this writ petition does not arise.

22. For the foregoing reasons, this Court does not find any merit in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.09.2025

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

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To:

- 1.The District Education Officer,
Office of the District Education Officer,
Manapparai, Trichy District.
- 2.The Block Education Officer,
Block Education Office,
Manikandam Union,
Trichy District.



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ABDUL QUDDHOSE, J.

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