



WP(MD). No.34777 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 01.12.2025

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

WP(MD). No.34777 of 2025

and

WMP(MD)No.27476 of 2025

T.Karthic Poobalan

... Petitioner

Vs

1. The Government of Tamil Nadu,
Rep. by the Principal Secretary to the
Government,
Department of School Education,
Secretariat, St.George Fort,
Chennai - 600 0009.
2. The Director,
Department of School Education,
Directorate of School Education,
DPI, Chennai - 600 006.
3. The Chief Educational Officer,
O/o.The Chief Educational Officer,
Theni District.
4. The District Educational Officer,
O/o.The District Educational Officer,
Theni District.
5. The Headmaster,

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Government Higher Secondary School,
Odaipatty - 625 540,
Theni District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Order in Na. Ka. No. 192/2025 dated 13.11.2025 on the file of the Respondent No.5 and to quash the same as illegal and consequentially for a direction, directing the Respondent No. 3 to re-fix the Petitioners pay by taking into account the service rendered by the Petitioner in the post of B.T. Assistant the Sourashtra Higher Secondary School from 30.08.2010 to 26.09.2014 and by protecting the pay last drawn by the Petitioner prior to joining the Respondent No.2 Department and to render all other consequential benefits within the time stipulated by this Court.

For Petitioner : Mr.G.Karthik,
for M/s.Roy and Roy Associates
For Respondents : Mr.M.Sarangan,
Additional Government Pleader

ORDER

The Petitioner is working as a B.T. Assistant in the Government Higher Secondary School, Theppampatty, Theni District. He was recruited through the Teachers' Recruitment Board and by the Proceedings of the Joint Director, School Education Department, dated



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25.09.2014. Prior to that, the petitioner served as B.T.Assistant in the Sourashtra Higher Secondary School, a private-aided linguistic minority school, in a sanctioned post from 30.08.2010 to 26.09.2014. By referring the earlier service rendered in the Sourashtra Higher Secondary School, the petitioner has submitted a representation for pay protection and also for conferment of selection grade from the year 2020. However, the petitioner's request was rejected, by a proceedings dated 13.11.2025. Challenging the same, the present writ petition has been filed.

2. The learned counsel for the petitioner submits that the petitioner was appointed as BT Assistant in the Private Aided Linguistic Minority School in a sanctioned post on 30.08.2010, where, he served as B.T.Assistant till 26.09.2014. Thereafter, he was selected by the Teachers' Recruitment Board in the year 2014. Therefore, he was relieved from the Private Aided School on 26.09.2014 and joined in the Government service in the Government Higher Secondary School, Theppampatty. According to him, the petitioner is entitled for pay protection as per the dictum laid down by this Court in W.A.No.3868 of 2019 dated 16.10.2020. Therefore, he has submitted a representation for



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re-fixation of his scale of pay and also for providing selection grade, by considering his past services rendered in the private aided school. However, the respondents, without considering the dictum laid down by this Court in W.A.(MD)No.3868 of 2019 dated 16.10.2020, has rejected the petitioner's request. Hence, the petitioner is before this Court.

3. Mr.M.Sarangan, learned Additional Government Pleader, who takes notice for the respondents, submits that a Division Bench of this Court, in ***W.A.No.3868 of 2019, dated 16.10.2020 (The Secretary to State Government and others vs. G.Rufus David)***, held that the petitioner therein is entitled to proper fixation of pay on the basis of his last pay drawn before his appointment as B.T.Assistant in the Government Service in terms of G.O.Ms.No.367, Education, Science and Technology Department, dated 30.03.1984. However, the learned Senior Judge, who authored the Judgment in W.A.No.3868 of 2019 as cited above, has changed his view in the case of ***The Government of Tamil Nadu and others vs. S.Arulmani*** in ***W.A.No.1118 of 2019***, vide ***Judgment dated 05.03.2021***, after referring the Government Orders pertaining to fixation of pay scale of teachers, who rendered service



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under the Private School Management in a sanctioned post getting appointment in the Government School, had distinguished that a fresh appointee in the post of Secondary Grade Teacher cannot claim his/her past service under the private management.

4. The learned Additional Government Pleader has also relied on the subsequent Judgment of the Division Bench of this Court in ***S.K.Kannan vs. The Director of School Education and others*** in ***W.A. (MD)No.627 of 2022***, wherein, the Division Bench has observed that the petitioner having participated in the direct recruitment process and got appointment cannot turn around and contend that he was appointed by transfer of service to the post of P.G.Assistant; that the petitioner even after being appointed as P.G.Assistant will not confer any right to get pay protection. This view has been reiterated by another Division Bench of this Court in ***Esakkiraj vs. The Chief Educational Officer, Chief Education Office, Tirunelveli and others***, in ***W.A.(MD)No.1805 of 2023***, vide order dated 12.10.2023, 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



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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 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



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School based on the contract between management of the Private Aided School and the appellant.”

5. The learned counsel for the petitioner has admitted the contradictory judgement in W.A.(MD)No.3868 of 2019 dated 16.10.2020 and also relied on a Judgment of the learned single Judge in W.P. (MD)Nos.17077 of 2020, 2069 and 18949 of 2021, dated 20.07.2023, wherein, the learned single Judge, by considering the contradictory views in this issue, has referred the matters to a Larger Bench.

6. The learned Additional Government Pleader submitted that a Larger Bench has not been constituted till date. However, the subsequent Division Bench of this Court, in the case of ***State of Tamil Nadu and others vs. A.Joseph Sebastian (W.A.(MD)No.686 of 2022)*** has rejected the similar request, by Judgment dated 24.03.2025.

7. This Court considered the rival submissions made.

8. In view of the Judgments of the Division Bench of this Court in ***S.K.Kannan's case*** as well as ***S.Arulmani's case*** and ***L.Esakkiraj's case***



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(as cited supra), this Court is not inclined to grant any relief to the petitioner as prayed for in this writ petition.

9. It is reported that the similar writ petitions in W.P.(MD)Nos. 17077 of 2020, 2069 and 18949 of 2021 have been referred to a Larger Bench, which is yet to be constituted. In the event, if any decision has been made in the Larger Bench, it is always open to the petitioner to workout his remedy, pursuant to the order of the Larger Bench.

10. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11. This Court places its appreciation to the learned Additional Government Pleader, who was very much ready with the case, even on the date of admission.

01.12.2025

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Index : Yes / No.

Internet: Yes / No.

NCC : Yes / No.



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To

WEB COPY

1. The Principal Secretary to the Government,
Department of School Education,
Secretariat, St.George Fort,
Chennai - 600 009.
2. The Director,
Department of School Education,
Directorate of School Education,
DPI, Chennai - 600 006.
3. The Chief Educational Officer,
O/o.The Chief Educational Officer,
Theni District.
4. The District Educational Officer,
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Theni District.



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B.PUGALENDHI, J.

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ORDER
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