



WEB COPY

WA No. 1565 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-06-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA No. 1565 of 2026

and

CMP No. 14556 of 2026

1. The Secretary
Government of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai-9
2. The Director of Elementary School Education
College Road,
Chennai-6.
3. The Chief Educational officer
Vellore, Vellore Dt
4. The District Educational Officer
Vellore, Vellore Dt
5. The Assistant Elementary Educational Officer
K.V.Kuppam panchayat Union,
Vellore Dt

..Appellant(s)

Vs

K.Kalaivani
B.T.Assistant Rtd. No.14, Poonja Mudali Street,
Dharanampettai,
Gudiyatham, Vellore Dt- 632601

..Respondent(s)

WA No. 1565 of 2026

To set aside the WP Order dated 24.08.2022 in W.P..No.21779 of
2018.

**WA No. 1565 of 2026**

For Appellant(s):

Dr.R.Gouri, Government Counsel

For Respondent(s):

Mr.R.Saseetharan for Sole Respondent

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Judgment**(Judgment of the Court was delivered by S.M.Subramaniam J.)**

The learned Government counsel would submit that the issue raised in the present writ appeal is no more *res integra*.

2. The issues have been decided by the Division Bench of this Court vide judgment dated 17.08.2021 in Review Application No.60 of 2020, wherein, the Court has passed the following orders.

28. It is settled law that seniority of a person has to be counted from the date of his initial appointment, if he was appointed in a regular post, selection to which is by way of regular mode of recruitment. Therefore, the corollary is, where the initial appointment is not according to rules, i.e., ad hoc, as a stopgap arrangement, the discharge of duty in such post cannot be taken into account for determining seniority.

29. When already the Government Orders issued by the Government are clear about fixing of the seniority, the same cannot be now altered by the judicial intervention. It is also to be seen that when the First Division Bench passed the order, based on the concession given by the Government, the right of the other parties (review petitioners/appellants in W.A.No.723 of 2020 and other similarly placed teachers), who were not arrayed as parties



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to the proceedings, would be affected and the same was not brought to the notice of this Court.

30. If the writ petitioners/the private respondents herein are extended such benefits, it will take away the rights already accrued to the review petitioners and other similarly placed teachers. It is, in this background, the review petition was entertained by the First Division Bench and such judicial intervention cannot be taken advantage of by the writ petitioners, in the absence of the persons, who may be affected by such an order.

31. When the absorption of the writ petitioners were during 2006, as per G.O.Ms.No.120, the writ petitioners had, in fact, knocked at the doors of this Court only in the year 2014, after inordinate delay and there is no explanation / reason for the delay and laches on their part. Even assuming that the writ petitioners moved the Court only after the non-inclusion of their name in the promotion panel, the said approach cannot be appreciated by this Court, for the simple reasons that they had accepted the terms and conditions of all those Government Orders and after such inordinate delay, they cannot seek any relief which is in contravention to the terms of those Government Orders. Undoubtedly, the delay on the part of the writ petitioners would disentitle them from the relief sought by them.

32. The said principle was re-emphasised by the Hon'ble Supreme Court in S.S. Balu v. State of Kerala, (2009) 2 SCC 479, in the following terms:

“17. It is also well-settled principle of law that ‘delay defeats equity’. The Government Order was issued on 15-1-2002. The appellants did not file any writ application questioning the legality and validity thereof. Only after the writ petitions filed by others were allowed and the State of Kerala preferred an appeal thereagainst, they impleaded themselves as party-



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respondents. It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment. It is, thus, not possible for us to issue any direction to the State of Kerala or the Commission to appoint the appellants at this stage."

33. The Hon'ble Supreme Court in Ghulam Rasool Lone v. State of J&K, (2009) 15 SCC 321, observed as follows :

"19. It is beyond any cavil of doubt that the remedy under Article 226 of the Constitution of India is a discretionary one. For sufficient or cogent reasons a court may in a given case refuse to exercise its jurisdiction; delay and laches being one of them. While considering the question of delay and laches on the part of the petitioner, the court must also consider the effect thereof." ...

34. It is also brought to the notice of this Court that in view of the pendency of the writ petitions, writ appeals and the review application, the promotion panel, which was drawn on 16.11.2019 is kept pending without any progress.

35. The First Bench, also had passed a reasoned order on 01.09.2020 to admit the review application. In view of the discussions made hereinabove, the Review petition No.60 of 2020 and W.A.No.723 of 2020 filed by the third parties, whose rights are affected by the said order, are allowed and consequently, the order dated 13.01.2020 passed in W.A.No.3904 of 2019 is recalled. As a natural corollary, the order passed by the writ Court dated 30.07.2019 in W.P.No.4991 of 2015 is set aside and the writ petition is dismissed.



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36. In view of the orders passed by us in the instant review petition, the writ appeals filed by the Government in W.A.Nos.245, 246 and 462 of 2020 are also allowed and the respective orders passed by the learned Single Judges, which were impugned therein, are also set aside and those writ petitions are dismissed.

37. It is also made clear that any order passed by this Court placing reliance on the judgment dated 13.01.2020 in W.A.No.3904 of 2019 and the order dated 30.07.2019 in W.P.No.4991 of 2015 cannot be given effect to, in view of the order passed in the review petition recalling the order dated 13.01.2020.

38. There shall be no order as to costs. The connected miscellaneous petitions are closed.

3. Learned counsel for the respondents would submit that the said judgment is relating to refixation of seniority and in the present case, the respondent is seeking to count the period between 12.11.1987 to 31.05.1988 as a qualified service towards pay of pension along with the regular service.

4. The qualifying services are well defined under the Tamil Nadu Pension Rules, 1978. No doubt, 50% of the temporary services may be counted under Rule 11(4) of the Tamil Nadu Pension Rules, subject to conditions stipulated. Thus, the authorities are directed to verify the service particulars of the respondent, calculate the qualifying services for which the respondent is eligible under the Tamil Nadu Pension Rules which may be extended to the appellant by following the procedures as contemplated under



the rules. Accordingly, the Writ Appeal stands disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

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(S.M.S.,J.) (N.S.,J.)
18-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

vsi

To

K.Kalaivani
B.T.Assistant Rtd. No.14, Poonja Mudali Street,
Dharanampettai,
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