



W.P.(MD) No.10314 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2026

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.10314 of 2023

and

W.M.P.(MD) No.9161 of 2023

A.S.Zahir Hussain

... Petitioner

Vs.

1.Chief Educational Officer,
Virudhunagar District,
Virudhunagar.

2.District Educational Officer,
Virudhunagar District,
Virudhunagar.

3.The Head Master,
S.S.S.N.Government Hr. Sec. School,
Virudhunagar District,
Virudhunagar.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned passed by the first respondent vide his proceedings in Na.Ka.No.1578/A4/2023 dated 15.03.2023 and quash the same as illegal and consequently direct the first respondent to re-fix the pay scale in accordance with Rule 22-B of the Fundamental Rules.



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For Petitioner : M/s.H.Jasima Yasmin
for M/s.Ajmal Associates

For R1 & R2 : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the first respondent *vide* his proceedings in Na.Ka.No. 1578/A4/2023 dated 15.03.2023 and to quash the same as illegal and consequently direct the first respondent to re-fix the pay scale in accordance with Rule 22-B of the Fundamental Rules.

2. The petitioner herein was initially appointed as a Secondary Grade Teacher in Mohamadia High School, Sitharkottai, Ramanathapuram, which is an aided school, on 04.09.1995 and continued in the said post till he was appointed as P.G. Assistant (Chemistry) through the recruitment undertaken by the Teacher Recruitment Board on 03.09.2010 and posted at Alagankulam Government High School, Ramanathapuram. Thereafter, the pay of the petitioner was fixed in the said Government High School treating him as a fresh candidate.



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Subsequently, the petitioner made a claim for counting the services rendered by him in Mohamadia High School, Sitharkottai, Ramanathapuram, which is an aided school, for the purpose of fixation of his pay on his appointment as P.G. Assistant (Chemistry) in the Government High School. However, the said claim was rejected by the first respondent by issuing the impugned proceedings dated 15.03.2023. Aggrieved by the same, the petitioner has approached this Court by filing the present Writ Petition.

3. The learned counsel for the petitioner places reliance on the decision of the Hon'ble Division Bench of this Court in W.A.No.3868 of 2019 dated 16.10.2020 [***The Secretary to Government, Department of School Education, Fort St. George, Chennai – 600 009 and another vs. G. Rufus David***] in support of his contention.

4. On the other hand, the learned Additional Government Pleader appearing for the first and second respondents places reliance on the decision of yet another Hon'ble Division Bench of this Court in W.A.No. 1118 of 2019 dated 05.03.2021 [***The Government of Tamil Nadu, rep. by the Secretary to Government, School Education Department, Fort St.***]



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George, Chennai – 9 and others vs. S. Arulmani] to contend that the petitioner is not entitled to count the past services rendered by him in the previous school for the purpose of fixation of pay.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the first and second respondents.

6. Having taken into consideration the overall facts and circumstances of the case, this Court has already considered an identical issue which came up for consideration before this Court recently in W.P. (MD) No.1571 of 2023 [**S.Helen Anitha vs. Director of Secondary Education, DPI Complex, College Road, Chennai – 600 006 and others**]. This Court, by an order dated 04.03.2026 in the said case, has observed as follows:

*“9. As far as the decision relied upon by the learned Additional Government Pleader in W.A.No.1118 of 2019 dated 05.03.2021 [**The Government of Tamil Nadu, rep. by the Secretary to Government, School Education Department, Fort St. George, Chennai – 9 and others vs. S. Arulmani**] is concerned, this Court is*



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*of the view that the same has no application to the facts of the present case, since it deals with a totally different set of facts relating to the appointment in Government service, whereas in the present case, the appointment of the petitioner was in two aided schools, which is specifically covered by various Government Orders issued from time to time. In the considered view of this Court, the case of the petitioner is squarely covered by the decision of the Hon'ble Division Bench of this Court in W.A.No.3868 of 2019 dated 16.10.2020 [**The Government of Tamil Nadu, rep. by the Secretary to Government, School Education Department, Fort St. George, Chennai – 9 and others vs. S. Arulmani**]. For better appreciation, the relevant paragraph from the said decision is extracted below:*

“14. It is evident from the aforesaid order passed by the Government that the service rendered by a Government servant, in the same service or to another service by method of recruitment by transfer, is entitled for refixation of pay. In Para No. 2 of the above Government Order, it has been clearly stated that the above order will be applicable to the staff employed in all recognised schools under the management of aided agencies and local bodies. Therefore, the respondent/writ petitioner, who was appointed earlier in an aided school, is entitled for the benefit of re-fixation on his appointment to the post of B.T.Assistant in Government Service. Therefore, as per the order passed by the Government, mentioned supra, the service rendered by the respondent-writ petitioner



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in an Aided School shall be counted for the purpose of fixation of his pay on his appointment to the post of B.T. Assistant. The appointment of the respondent/writ petitioner to the post of B.T. Assistant is by way of transfer of appointment and he cannot be treated as a fresh appointee in the post of B.T. Assistant. This is also in tune with Rule 3(I)(IV) of the Special Rules for Tamil Nadu Educational Subordinate Service. In such circumstances, it cannot be contended by the appellants that the respondent's appointment as B.T. Assistant is as per his own wish and he is not entitled for protection of his pay. When the appellants have decided to count the past service of the respondent/writ petitioner for the purpose of conferment of pensionary benefits on his retirement, equally, the same yardstick has to be resorted to by the appellants for re-fixation of his pay during the course of his service as B.T. Assistant. It is to be noted that, as on 02.01.2009, when the respondent/writ petitioner was relieved, his Basic Pay was Rs.16,650 along with admissible Grade Pay. However, on his appointment to his higher post as B.T. Assistant, his pay was fixed only as Rs.14,630/- with applicable pay. On appointment to a higher post, the respondent-writ petitioner cannot be deprived of re-fixation of pay, taking into account the past service rendered in the Aided School. The learned Single Judge also, on appreciation of the above factual as well as legal grounds, has rightly allowed the writ petition filed by the respondent and we see no reason to interfere with the same."

10. In the light of the above decision of the Hon'ble Division Bench of this Court in W.A.No.3868 of 2019 dated 16.10.2020, this Court does not see any



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reason to re-adjudicate the matter afresh and is of the considered view that the issue is squarely covered by the said decision. In view of the above, the impugned orders are liable to be quashed and accordingly they are quashed. The respondents are directed to take into consideration the services rendered by the petitioner in Nathan Girls Higher Secondary School, Nerkundram, Ponneri Educational District, Thiruvallur District, for the purpose of fixation of pay in T.D.T.A. Higher Secondary School, Christianagaram, Thoothukudi District, to which she was appointed on 08.08.2014 and calculate the amount payable to the petitioner consequent to the refixation of pay and release the same as expeditiously as possible, at any rate within a period of twelve (12) weeks from the date of receipt of a copy of this order.”

7. In the light of the above, this Court does not see any reason to re-adjudicate the matter afresh and is of the considered view that this Writ Petition can be disposed of in terms of the said order dated 04.03.2026 in W.P.(MD) No.1571 of 2023.

8. Accordingly, the impugned order dated 15.03.2023 is hereby quashed. The respondents are directed to take into consideration the



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services rendered by the petitioner in Mohamadia High School, Sitharkottai, Ramanathapuram, for the purpose of fixation of pay in Alagankulam Government High School, Ramanathapuram, to which he was appointed as P.G. Assistant (Chemistry) on 03.09.2010 and calculate the amount payable to the petitioner consequent to the re-fixation of pay and release the same as expeditiously as possible, at any rate, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9. Accordingly, this Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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JEN

NCC : Yes / No

Index : Yes / No

To

1.Chief Educational Officer,
Virudhunagar District,
Virudhunagar.

2.District Educational Officer,
Virudhunagar District,
Virudhunagar.



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3.The Head Master,
S.S.S.N.Government Hr. Sec. School,
Virudhunagar District,
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MUMMINENI SUDHEER KUMAR, J.

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