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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED : 23-09-2026

ORDER PRONOUNCED : 03.11.2026

CORAM

THE HON'BLE MR.JUSTICE RAJNISH PATHIYIL

WP(MD) No. 14390 of 2018

CNR:{HCMD010937222018}

Case QR

1. P.Jabaraj Samuel Benedict

2. R.Robert Asokan
(died)

3. J.Lilly Margaret,

4. Joy Christiana Suguna

5. S.Mary Jessie Rani

6. P.Leely Mary

7. P.Vasantha Rani

8. R.Banumathi,

9. Anne Pratheeba,
(P8 and P9 are Substituted vide court order dated.21.10.2024)

..Petitioner(s)

Vs

1. The Secretary To Government
School Education Department, Fort.St.George, Chennai 600 009

2. The Director Of School
Education, DPI Compound College Road,
Nungambakkam, Chennai 600 006

3. The District Educational Officer, Thanjavur District,
Thanjavur

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4. The District Educational Officer, Tiruchirappalli District, Tiruchirappalli

5. The Correspondent
Blake Higher Secondary School, Thanjavur 613 001

6. The Correspondent
St.Peters Higher Secondary School, Thanjavur 613 009

7. The Correspondent
Bishop Hebers Higher Secondary School, Puthur,
Tiruchirappalli 620 017

8. The Correspondent
CSI Methodist Girls Higher Secondary School,
Uraiyur, Tiruchirappalli 620 003

..Respondent(s)

PRAYER: To issue a Writ of Mandamus directing the respondents 1 to 4 to count the services of the petitioners in the post of Secondary Grade Teachers from the date of their respective first appointment as Secondary Grade Teacher for the purpose of fixation of pay, sanction of annual increments, grant of selection grade scale of pay as has been given to similarly placed teacher in the same District as well as throughout the state in other Districts and in the light of the judgment of this Court dated 24.2.2014.

For Petitioner(s) :MrK.Rajkumar

For Respondent(s) :Mr.T.Cibi Chakraborthy
Additional Government Pleader
for R1 to R4

No appearance for R5 to R8

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ORDER

The petitioners have filed this writ petition seeking issuance of writ of mandamus directing the respondents 1 to 4 to count the services of the petitioners in the post of Secondary Grade Teacher from the dates of their respective first appointments for the purposes of fixation of pay, sanction of annual increments, grant of Selection Grade, etc. as has been done in the case of similarly placed teachers, by following the judgment of this Court dated 24.02.2014 in W.P.(MD) No. 2368 to 2370 of 2014.

2. The factual narrative as has been set out in the affidavit filed by the petitioners is as follows:

2.1. The petitioners are all qualified to be appointed as B.T. Assistants, but were appointed in the lower post of Secondary Grade Teachers in various minority schools since the year 1995. Their services were approved in the said post. However, due to introduction of a policy of the Government which directed that child psychology training is required to be undertaken by Secondary Grade Teachers, they were subject to such training. It is the petitioners' case that their services were reckoned only from the date of completion of child psychology training in 2003. However, while counting their past service from the date of first appointment for the purpose of pay fixation, etc., there was no uniform procedure followed throughout the State of Tamil Nadu. As a result, there

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was discrimination. Even though the petitioners were similarly placed, some of the teachers in other districts were given the benefit, while the petitioners were denied of the same. The petitioners have listed several such cases in the affidavit and contend that the aforesaid persons have all been granted selection grade upon completion of 10 years of service by reckoning their past service, which is as follows:-

S.No.	W.P. No.	Name	Date of first appointment	Selection Grade on completion of ten years
1	10565 of 2015	Vairam	28.03.1998	27.03.2008
2	10566 of 2015	V. Dhanaraj	20.03.1998	27.03.2008
3	10567 of 2015	M. Shambagavalli	22.08.1997	21.08.2007
4	10568 of 2015	M.S. Sivajaya	15.04.1998	14.04.2008
5	10569 of 2015	S.S. Thangavel	01.02.1997	31.01.2007
6	10570 of 2015	C.L. Rameshkrishnan	07.04.1998	06.04.2008
7	10571 of 2015	S. Suseela	22.08.1997	21.08.2007
8	10572 of 2015	M. Lakshmi	01.12.1997	30.11.2007
9	10573 of 2015	D. Akilandeswari	27.10.1997	26.10.2007
10	10574 of 2015	M. Krishnamurthy	11.04.1998	10.04.2008
11	10575 of 2015	M. Sankari	01.12.1997	30.11.2007
12	10576 of 2015	N. Poovarasi	28.03.1997	27.03.2007
13	10577 of 2015	J. Karthikeyan	15.12.1997	14.12.2007

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2.2. The petitioners also would submit that vide G.O.Ms.No.559 dated 11.07.1995, a policy was introduced that persons holding higher qualifications, such as B.T. Assistants / Tamil Pandits with a B.Ed. degree, should not be appointed to the lower post of Secondary Grade Teachers. The said G.O. was challenged in a batch of writ petitions in W.P. No. 6388 of 1998 etc., (batch), and ultimately, the writ petitions came to be dismissed vide order dated 19.05.1998. The same was taken on appeal by the aggrieved petitioners in W.A. No. 991 to 998 of 1998, and the Hon'ble Division Bench, vide order dated 29.06.2001, in ***Secretary Correspondent, Uswathun Hasana Oriental (Arabic) Girls Higher Secondary School v. State of Tamil Nadu*****,** reported in **2002 Writ LR 173**, upheld the G.O. but directed the State Government to evolve a scheme for those graduate teachers who had already been appointed in Secondary Grade Teacher posts up to 19.05.1998, the date of the order of the learned Single Judge.

2.3. Thereafter, in compliance with the directions of the Hon'ble Division Bench, the State Government issued G.O. Ms. No. 155, School Education (D2) Department, dated 03.10.2002, directing to approve the appointments of Graduate Teachers with qualification for B.T. / Tamil Pandit in secondary grade posts up to 19.05.1998. It was further directed in the said G.O. that the Graduate teachers appointed between 11.07.1995

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and 19.05.1998 should undergo a month's training in Child Psychology, and directed the educational authorities to approve the appointments after completion of the said training vide G.O.Ms.No.155 dated 03.10.2002. The G.O. further directed the recovery of salaries paid to those teachers who were earlier working on the strength of the Interim Orders of the Hon'ble Court.

2.4. The said G.O.Ms.No.155 dated 03.10.2002 was put to challenge before this Court in a batch of writ petitions in W.P. No. 42067 of 2002, and ultimately, the writ petitions came to be dismissed. Thereafter, Writ Appeal No. 249 of 2002 was filed, and the Hon'ble Division Bench of this Court vide order dated 02.04.2004 in ***State of Tamil Nadu v. Pallivasal Primary School,*** reported in **2004 (2) LW 591,** while upholding the aforesaid G.O., directed the Government not to recover the salaries already paid to them, and further directed to reckon their services rendered before completion of one-month Child Psychology for pension purposes.

2.5. In 2003, the petitioners have undergone a month's child psychology training, and thereafter, the petitioners were appointed with effect from 2003, not from their original date of appointment, that is, between the period 1995-1998. It is useful to refer to the chart which lists out the respective date of appointments of the petitioner.

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S.No	Name and Designation	Date of Approval (Initial Appointment)	Appointment After Child Psychology Training	Whether they are receiving pension	Date of Retirement
1	P. Jabaraj Samuel Benedict	12-12-1997	02.06.2003Yes, w.e.f. 02.06.2003 (after Completion of Child Psychology)		28.02.2018
2	R. Robert Ashokan	16-11-1995	02.06.2003Yes, w.e.f. 02.06.2003 (after Completion of Child Psychology)		31.10.2014
3	J. Lilly Margaret	20-12-1996	02.06.2003Yes, w.e.f. 02.06.2003 (after Completion of Child Psychology)		31.05.2023
4	Joy Christiana Suguna	05-02-1996	02.06.2003Yes, w.e.f. 02.06.2003 (after Completion of Child Psychology)		31.03.2012
5	S. Mary Jessie Rani	16-11-1995	02.06.2003Yes, w.e.f. 02.06.2003 (after Completion of Child Psychology)		31.05.2018
6	P. Leely Mary	12-12-1997	02.06.2003Yes, w.e.f. 02.06.2003 (after Completion of Child Psychology)		31.08.2013
7	P. Vasantha Rani	12-12-1997	02.06.2003	YES	31.10.2014

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2.6. As could be seen, most of the petitioners have been appointed between the years 1995-97, and the child psychology training was undertaken by them only on 02.06.2003 (completed), and thereafter, they have been appointed with effect from 02.06.2003. The petitioners' contention is, therefore, that instead of their appointment being recognized from 02.06.2003, they ought to have been appointed with effect from their date of initial appointment as secondary grade teachers.

3. The learned counsel for the petitioner referred to a judgment of this Court in ***K. Panchanathan & Ors., v. The Government of Tamil Nadu,*** **W.P. (MD) No. 2368 to 2370 of 2014,** dated 24.02.2014 and drew the attention of this Court to the findings therein, which are extracted hereunder:

> *"3. The petitioners are degree holders. They were appointed as Seconeary Grade Teachers. Thereafter, they were made to undergo Child Psychology Training. The grievance of the petitioners is that the services rendered by them as secondary Grade Teachers have not been taken into account for the purpose of computing their services to grant Selection Grade Scale of pay.*
>
> *4. Considering the very same issue viz. the date of appointment will have to be taken into account for the purpose of counting the seniority, this Court in W.P.(MD) No.6505 of 2017, dated 16.08.2012, was pleased to held as follows:-*

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"11. While considering the above said plea, this Court vide order dated 23.11.1998, has observed as follows:

> *"9....Once an appointment has been approved without any condition, the Government has been bound to pay the grant. In this case, it is seen that the approval has been made without any condition. It may be a mistake by the Department, But so long as the approval stands, being an aided school, the Government is bound to issue a staff grant. In fact, upto May 1998, staff grant was issued without any compulsion. Only from June 1998, the respondent refused to pay the grant and that can only be on the basis of the judgment which upheld G.O. Ms.No.559. Merely because G.O.Ms.No.589 has been upheld that cannot be a reason for refusing the staff grant in this case, when there is an unconditional approval for the three teachers".*

12. In the light of the decision made in W.P.No.9854 of 1998 dated 23.11.1998, the contention of the District Educational Officer, Paramakudi, in his counter affidavit dated 27.01.2009, that only after completion of the training in Child Psychology in District Institute of Education and Training, Manjur, the appointment of the teachers was approved on 02.06.2008 and that they would be eligible for Selection Grade, in the post of Secondary Grade in the post of Secondary Grade teachers, only after 10,years i.e. on 02.06.2018, cannot be countenanced. There cannot be two approvals of the post of Secondary Grade teachers. Needless to state that Selection Grade Scale of Pay is given to a Government Servant considering 10 years of service put in by him.

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13. In the case on hand, the teachers belonging to the Pallivasal Higher Seconeary School, Mudukulathur, Ramanathapuram District, were appointed on 21.12.1996. Admittedly, theyhave completed 10 years of service in 2006. As stated supra, their appointments have been approved as Secondary Grade teachers earlier. As observed in the order in W.P.No.9854 of 1998 dated 23.11.1998, approval of appointment is unconditional and that there is no alteration in the service condition. As the petitioners have completed 10 years of service in 2006, in the post of Secondary Grade Teachers, and considering the object in granting the selection Grade Scale of Pay, i.e. to avoid stagnation in any particular post, this Court is of the view that the petitioner is entitled to the relief sought for. The objections of the respondents are overruled. On the facts and circumstances of the case, a Mandamus is issued directing the third respondent to grant selection grade scale of pay to the teachers of the petitioner school, namely (1) S.Muthu Madasamy and (2) Ali Akbar with effect from 21.12.2006 and pay all the benefits, within a period of two months from the date of receipt of a copy of this order".

...

6. In such view of the matter, the orders impugned are set aside and the Writ Petitions are allowed. The respondents are directed to grant Selection Grade scale of pay to the petitioners with effect from 10.11.2007, 31.01.2007 and 31.09.2005 respectively, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed."

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4. The petitioners also relied on the proceedings of the District Elementary Educational Officer in Na.Ka.No.4332/A3/2014, dated 18.06.2014, and submitted that two persons covered by the said proceedings had been granted pay fixation, selection grade and increments with effect from the dates of their respective initial appointments, pursuant to orders passed by this Court. They further pointed out that umpteen orders had been passed by this Court and the educational authorities of Thanjavur and Trichy Districts, granting similar benefits by reckoning the past services rendered by B.T. qualified teachers appointed as Secondary Grade Teachers. The last such proceedings were issued by the District Educational Officer, Thanjavur, in Na.Ka.No.3917/A4/2014, dated 19.05.2017, pursuant to the judgment of this Court in W.P.(MD) No.23799 of 2016, dated 08.12.2016. They further relied on the proceedings of the Additional Assistant Elementary Education Officer, Ammapettai, in Na.Ka.No.A2/2013, dated .09.2013, granting Selection Grade to Tmt.G.Saraswathi with effect from 15.08.2006 by counting her service from the date of her initial appointment, namely 08.08.1996.

5. The petitioner also referred to the judgment of a learned Single Judge of this Court in ***C.Singarayan v. State of Tamil Nadu*, W.P. No. 19821 of 2003 etc., (batch)** dated 22.01.2013 and relied on the following

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paragraphs:

"4. It is brought to the notice of this Court by the learned counsel appearing for the petitioner that an identical issue was decided by this Court in an earlier writ petition being W.P.No.4310 of 2002, dated 09.07.2010 (R.Vimala vs. The Director of School Education). In the said writ petition a direction was sought for to approve the appointment of the petitioner therein as Secondary Grade Teacher. In the said case, the petitioner, who was Tamil Pandit, was appointed as Seconeary Grade Teacher in a school, which is aided minority institution. This court after taking into consideration the order passed by the Hon'ble Division Bench, allowed the writ petition. The operative portion of the order reads as follows:-

> *7. ...The question whether the petitioner can be penalized for not having been sent for Child Psychology Training came for consideration before this Court in M.Sundersingh Vs. Government of Tamil Nadu and others (2006) 2 M.L.J. 784 and this Court held as follows:-*
>
> > *"11. The learned counsel for the petitioner submitted that the petitioner is continuously working without getting salary. Petitioner is to be paid salary from 02.06.2003 as it has been given to other similarly placed Teachers. As and when child Psychology Training is given through D.I.E.T. the petitioner shall undergo the said training. The service of the petitioner from 07.01.1998 to 02.06.2003 shall be counted for pension purposes only as held by the Division Bench decision reported in 2004(2) Lw 591 (State of Tamil Nadu & others V. Pallivsal Primary School), Denial of sending the*

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petitioner for training is due to the fault of the respondents and therefore the same cannot be put against the petitioner for delaying payment of his salary."

6. He would therefore submit that it is not as if the petitioner's case is an isolated case. There are several orders passed by this Court, including the ones which have been cited, and that apart, the Government also acceded to requests and passed orders reckoning the services of persons like the petitioners from their initial date of appointment. He would also refer to the proceedings dated 11.09.2012 in G.O. (Ms) No.122, Aadhi dravidar and Tribal Welfare Department and contend that the petitioner is entitled to the relief sought. The relevant portion is extracted hereunder:

"8. இச்சுற்றறிக்கையினை அடுத்து, இத்துறையைச் சார்ந்த சங்கங்கள், இது போன்ற ஆசிரியர்கள் ஏற்கனவே 4 ஆண்டுகளுக்கு மேல் பணிபுரிந்துவிட்டிருப்பதாலும், இவர்களுக்கு இந்த குழந்தை மனநிலை ஒரு மாத பயிற்சி அவசியமில்லை என்றும், இவர்கள் ஆசிரியர் பணியேற்ற நாள் முதல் பணிவரன்முறை செய்து தொடர் ஊதிய உயர்வு, பணி உயர்வு வழங்கிட கோரியுள்ளது என்று ஆணையர் குறிப்பிட்டுள்ளார். மேலும் இப்பணியாளர்கள் கோரிக்கை நியாயமாக உள்ளதாக கூறி, இவ்வாசிரியர்களுக்கு குழந்தை மனநிலை பயிற்சி அவசியம் இல்லை என்றும், இவ்வாசிரியர்களில் பெரும்பாலோர் அறிவியல் மற்றும் கணிதப் பாடங்களில் பட்டம் பெற்றவர்களாக இருப்பதால், இவர்களது பணியினை உயர்நிலைப் பள்ளிகளுக்கும்

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பயன்படுத்திக்கொள்ள வாய்ப்புள்ளது என்றும் ஆதிதிராவிட நல ஆணையர் தெரிவித்துள்ளார்.

7. மேற்காணும் சூழ்நிலையில் ஆதிதிராவிடர் நல இயக்குநரின் செயற்குறிப்பினை அரசு ஆய்வு செய்து, ஆதிதிராவிடர் மற்றும் பழங்குடியினர் நலப்பள்ளிகளில் பட்டதாரி ஆசிரியர் தகுதிபெற்று இடைநிலை ஆசிரியர்களாக நியமனம் பெற்று பணிபுரிந்து வரும் நபர்களுக்கு, அவர்கள் குழந்தைகள் மனநல பயிற்சியை முடித்த பின்னர், அவர்கள் அப்பதவியில் பணியேற்ற நாள் முதல் பணிவரன்முறை செய்ய அரசு ஆணையிடுகிறது.”

7. He would say that the persons belonging to Adi Dravidar Scheduled Castes and Scheduled Tribes, recruited under the category of Scheduled Castes and Scheduled Tribes, have already been extended the benefit, and there is no reason why persons like the petitioners should be discriminated against. He would also refer to another proceeding dated 11.09.2012 in G.O. (3D) No. 117 and contend that the petitioner would be entitled to the relief that they have sought for. The relevant portion is extracted hereunder:-

“4. மேலே முதலாவதாக படிக்கப்பட்ட சென்னை உயர்நீதிமன்ற நீதிப் பேராணை மனு எண். 16383/2000ல் 3.11.2008 அன்று வழங்கப்பட்டுள்ள தீர்ப்பாணையின் அடிப்படையில், மேலே பத்தி இரண்டில் உள்ள தொடக்கக் கல்வி இயக்குநரின் கருத்துருவினை அரசு கவனமுடன் பரிசீலித்து, அதனை ஏற்கலாம் என முடிவு செய்து, அவ்வாறே தஞ்சாவூர் மாவட்டம், கும்பகோணம் ஒன்றியம், சாக்கோட்டை பகுத்தறிவு பாடசாலை உதவி பெறும் தொடக்கப் பள்ளி தலைமையாசிரியர்

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பணியிடத்தில் பட்டதாரி ஆசிரியர் தகுதி பெற்ற திருமதி ஆர். மஞ்சுளா தேவி என்பவருக்கு பள்ளி நிர்வாகத்தல் நியமனம் செய்யப்பட்ட நாளான 26.12.1997 முதல் 26.12.2002 வரை இடைநிலையாசிரியர் ஊதியத்திலும், 26.12.2002 முதல் தொடக்கப்பள்ளி தலைமையாசிரியர் பணியிடத்திலும் ஊதியம் மற்றும் பிற படிகள் வழங்க அனுமதி அளித்து, அரசு ஆணையிடுகிறது.”

8. The learned counsel for the petitioners relied upon the judgment of the Hon’ble Supreme Court in ***M.R. Gupta v. Union of India & Ors.***, reported in **(1995) 5 SCC 628**, to contend that a claim relating to pay fixation gives rise to a recurring cause of action and cannot be rejected on the ground of delay and laches. Reliance was also placed on the judgment in ***Suvisesha Muthu v. Director of Public Health***, in **W.P. No. 12218 of 2010**, in this regard.

9. Similarly, he would contend that when similarly placed persons have been extended the benefit, the denial of the same to the petitioners would be arbitrary and violative of Article 14 of the Constitution, and therefore seeks for a mandamus directing the respondents to reckon the date of initial appointment of the petitioners and to disburse consequential benefits.

10. The learned Additional Government Pleader appearing for the respondents commenced his argument by submitting that the petitioners

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have belatedly approached this Court in the year 2018, as the issue has been settled long back, since the first of the judgments of this Court upholding G.O.Ms. No. 559 dated 11.7.1998 was passed 29.06.2001. Similarly, the second important judgment which upheld G.O.Ms. No. 155 dated 03.10.2002 was passed on 02.04.2004. The right, if any, accrued on the said date, and the petitioners have remained mute spectators and have filed this petition after almost 16 long years, and therefore, he submitted that the petitioners are guilty of delay and laches and are not entitled to any relief.

11. He would cite the dates of retirement of the respective petitioners, which have already been extracted in para 2.5. above, and submit that the petition itself has been filed after several years of the petitioners' retirement, and this itself would show that they were conscious of the fact that the date to be reckoned with was the date on which they completed the child psychology training, and not the date of their initial appointment as a Secondary Grade Teachers. He would cite the judgment of ***C. Jacob v. Director of Geology and Mining*, (2008) 10 SCC 115**, and refer to the following paragraphs:

> *"10. Every representation to the Government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits*

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of the claim. In regard to representations unrelated to the Department, the reply may be only to inform that the matter did not concern the Department or to inform the appropriate Department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim.

11. When a direction is issued by a court/tribunal to consider or deal with the representation, usually the directee (person directed) examines the matter on merits, being under the impression that failure to do so may amount to disobedience. When an order is passed considering and rejecting the claim or representation, in compliance with direction of the court or tribunal, such an order does not revive the stale claim, nor amount to some kind of "acknowledgement of a jural relationship" to give rise to a fresh cause of action."

12. He would further submit that the petitioners' appointments were irregular, as they were appointed as Secondary Grade Teachers on the basis of their higher qualifications, owing to the shortage of candidates possessing the prescribed Diploma in Teacher Education, despite the ban imposed under G.O.Ms.No.559, dated 11.07.1995, on the appointment of B.Ed.-qualified candidates to the said posts.

13. The said G.O.Ms.No. 559 was upheld by the Hon'ble Division

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Bench of this Court in ***Secretary, Correspondent, Uswathun Hasana Oriental (Arabic) Girls Higher Secondary School v. State of Tamil Nadu,*** **2002 Writ LR 173.** The Division Bench, however, directed the Government to protect the appointments made up to 19.05.1998, subject to completion of one month's child psychology training. Pursuant thereto, G.O.Ms.No.155, School Education (D2) Department, dated 03.10.2002, was issued, providing that teachers appointed as Secondary Grade Teachers between 11.07.1995 and 19.05.1998 would be granted approval of appointment from the date of completion of the one-month Child Psychology Training. The said Government Order was upheld in ***State of Tamil Nadu v. Pallivasal Primary School,*** **2004 (2) LW 591**, with only directions that salaries already paid should not be recovered and that the service rendered prior to completion of the training shall be reckoned only for pensionary benefits.

14. He further submitted that this issue has long since been settled, and that the petitioners' attempt to open a Pandora's box by re-agitating a settled issue is, in other words, an attempt to flog a dead horse. The learned AGP also cited the judgment of the Hon'ble Division Bench of this Court in ***The Director of Elementary Education & Ors. v. Sundaravel Raj,*** **W.A.(MD) Nos.74 of 2015 and 957 of 2016,** dated 21.03.2018, and contended that the issue has been lucidly set out in the

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aforesaid judgment and there is no requirement to even look anywhere outside the judgment to find an answer to the contentions raised. The relevant portions are extracted hereunder:

> *"3. Since the issue involved in these appeals are common they were heard together and disposed of by a common judgment. These two appeals have been filed by the District Elementary Education, challenging the orders passed in the writ petitions filed by the respondents wherein they sought for monetary benefits from the date of original appointment as well as increment and benefits such as selection grade and special grade. Though there may be a slight difference in the two orders passed in the writ petition, which are subject matter of the these appeals, the common issue which fall for consideration is with regard to benefits which will accrued to the respondent teachers pursuant to the order passed by the Government in G.O.Ms.No.155 School Education (D2) Department dated 03.10.2002.*
>
> ...
>
> *7. ...The question would be as to whether the Teachers would be entitled to get salary from the date of first appointment, I.e. the order of irregular appointment and as to whether they would be entitled for salary in the Secondary Grade scale from the date of completion of child psychology training. There can be no controversy on the aspect as the Government order clearly stipulates as to from what date the Secondary Grade scale of pay is liable to be paid to those Teachers including the respondents. This is contained in Clause 3(iii) of G.O.Ms.No.155 dated 03.10.2002, which reads as follows:*

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"(iii) மேற்கண்ட நியமனங்கள் அரசாணைக்குப் புறம்பாக செய்யப்பட்டுள்ளதாலும், இந்நியமனதாரர்களால் தொடரப் பட்ட ரிட் மனுக்கள் மற்றும் அதனை எதிர்த்து தள்ளுபடி செய்யப்பட்டுள்ளதாலும் மேற்கண்ட நியமனங்களுக்கு நியமன முதல் ஒப்புதல் வழங்கி, அந்நாள் முதல் ஊதியம் வழங்க இயலாது. எனவே, மேற்கண்ட பயிற்சியை முடித்த நாளிலிருந்து இவர்களுக்கு முறையான இடைநிலை ஆசிரியர்களாக நியமன ஒப்புதல் அளித்து, அந்த நாளிலிருந்து மட்டுமே இடைநிலை ஆசிரியர் ஊதியம் வழங்க வேண்டும் என்று ஆணையிடப்படுகிறது."

8. Another condition, which would be relevant for the present case is clause 3(viii) of G.O.Ms.No.155 dated 03.10.2002, which reads as follows:

"(viii) மேற்கண்ட நபர்கள் நியமன ஒப்புதலின்றி பணிபுரிந்த காலத்தை அங்கீகரிக்கப்பட்ட தனியார் பள்ளிகளில் பதவி உயர்வுக்கோ ஊதிய நிர்ணயத்திற்கோ, ஓய்வூதியப் பயன்கள் வழங்குவதற்கோ கணக்கில் கொள்ளக் கூடாது என்றும் தெரிவிக்கப்படுகிறது."

9. The management of various Schools, which had appointed Teachers like the respondents had challenged the validity of G.O.Ms.No155 dated 03.10.2002 and the matter travelled upto the Division Bench and the Division Bench in the case of The State of Tamil Nadu and others v. Pallivasal Primary School reported in 2004-2-L.W. 591 upheld G.O.Ms.No.155 dated 03.10.2002. The only relief granted to the Teachers, who were appointed in Secondary Grade vacancies, is the grant of salaries, whereby restraining the

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department from effecting any recovery. Therefore, paragraph No.3(7) of G.O.Ms.No.155 alone was set aside and rest of the Government Order was upheld in the said decision. It was subsequently ordered that approval/confirmation of the appointment can be only after the date of completion of the child psychology training. Further the Division Bench observed that the past service i.e prior service child psychology training shall count. After the decision rendered in the case of Pallivasal has attained finality, the respondent/writ petitioners seek for salary for the earlier period as well as for other monetary benefits such as increment, selection grade and special grade, etc. We have given our careful consideration. We find in paragraph No.7 of its judgment, the Hon'ble Division Bench has noted the various condition in G.O.Ms.No.155 and held that the respondent therein would be entitled to relief as granted to similarly placed teachers. If that is so, the ultimate conclusion would have been to grant benefit from the date of completion of the child psychology training. However in the penaltimate portion of the order her salary has also been included. In our considered view, the direction to pay salary does not corroborate with the observation made by the Division Bench, in the decision in the case Suganthi Victoria. The Government had admitted that at best it can be taken as a decision pertaining to the said case on its factual matrix and that cannot be taken as a precedent. In the case of Government of Tamil Nadu v. Sri Rao Bahadur AKD Dharmaraja Girls Higher Secondary School in W.A.(MD)No.3442 of 2002 dated 08.09.2006, the Division Bench, relying on the decision of the case reported in 2002 Writ L.R. 173, held that the salary can be paid only after completion of the child psychology training

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and accordingly, allowed the Government appeal.

10. The learned counsel for the respondents/writ petitioners relied on certain other orders passed by various single Benches including one of us (TSSJ) and on perusal of the same, we find that in none of those decisions, the full effect of G.O.Ms.No.155 and the conditions therein have been thoroughly examined. Apart from that, the decision in the case of Pallivasal Primary School has not been specifically noted. Therefore, we are of the considered view, that those decisions cannot be referred to advance the case of the respondents/writ petitioners, though some of them have attained finality. Needless to state that if there has been a wrong decision, it cannot be treated as precedent.

11. In the light of the above reasoning, we are of the considered view that the order passed by the Writ Court directing disbursement of salary from the date of original appointment, cannot be sustained, in the light of explicit condition imposed in G.O.Ms.No.155, which was upheld by the Division Bench in a Public Interest Litigation. Thus, for the above reasons, the writ appeals filed by the department has to be allowed." (emphasis supplied)

15. The learned Additional Government Pleader would further submit that the proceedings of the Additional Assistant Elementary Education Officer, Ammapettai, in Na.Ka.No. A2/2013, dated .09.2013, by which Tmt. G. Saraswathi was granted Selection Grade with effect from 15.08.2006 by counting her service from the initial date of

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appointment, i.e., 08.08.1996, cannot be relied upon, as they were subsequently cancelled vide the proceedings of the Block Educational Officer, Ammapettai, in Na.Ka.No.670/A3/2019, dated 26.12.2025, issued in the light of the judgments of this Court in W.A.(MD) No.272 of 2017, dated 04.03.2024, and W.A.(MD) No.429 of 2020, dated 19.06.2025, and the earlier proceedings dated 31.07.2019. By the said proceedings, the service benefits, incentives and Selection Grade granted to Tmt. Saraswathi with effect from 08.08.1996 were cancelled as being contrary to G.O.(Ms) No.155, since her regular appointment had been approved only with effect from 02.06.2003, upon completion of the training. The excess amount of Rs.10,20,680/- paid to her for the period from 08.08.1996 to 31.07.2019 was also ordered to be recovered.

16. He also submitted that the two Government orders cited by the petitioners, namely G.O.(Ms) No.122, Adi Dravidar and Tribal Welfare Department, dated 02.08.2005, directing the counting of past services from the date of first appointment, and G.O.(3D) No.117, School Education (B1) Department, dated 11.09.2012, were issued on the peculiar facts of those cases, where the writ petitions had ended in favour of the petitioners and the appeals preferred against them were also dismissed, which prompted the authorities to extend the benefit to those petitioners alone.

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17. The learned Additional Government Pleader submitted that the issue has been authoritatively settled by the various judgments, and hence the apple cart cannot be upset at this stage.

18. In the aforesaid background and submissions of both counsels and on perusal of the materials on record, the issue to be determined is as to whether the petitioners would be entitled to be reckoned as being appointed with effect from the original date of appointment as secondary grade teachers.

19. As has been submitted by the learned Additional Government Pleader, the appointments of the petitioners were made in deviation of G.O.(Ms) No.559 dated 11.07.1995, which mandated that appointments to the post of Secondary Grade Teachers cannot be made from higher qualified persons, such as B.T./Tamil Pandit graduates holding a B.Ed. degree. This may appear strange today, but at the relevant point in time, since Government felt that secondary grade teachers should be appointed from and among persons who have completed Diploma in Teachers Education, and not from persons with higher qualifications. The said G.O. was challenged in a batch of writ petitions, W.P. No.6388 of 1998 etc., which were dismissed on 19.05.1998. In the writ appeals, W.A. Nos.991 to 998 of 1998, the Hon'ble Division Bench, by order dated 29.06.2001 in ***Secretary, Correspondent, Uswathun Hasana Oriental***

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***(Arabic) Girls Higher Secondary School v. State of Tamil Nadu*, 2002 Writ LR 173**, directed that those appointed between 1995 and 1998 should be saved, but that they must undergo child psychology training for one month.

20. In compliance with the aforesaid directions, the State Government issued G.O.Ms.No.155, School Education (D2) Department, dated 03.10.2002, directing approval of the appointments of graduate teachers qualified as B.T./Tamil Pandits in Secondary Grade Posts between 11.07.1995 and 19.05.1998 subject to them undergoing one month's training in Child Psychology. The G.O. also directed recovery of the salaries paid to teachers who had been working on the strength of interim orders of this Court. The said G.O.155 was challenged in a batch of writ petitions, W.P. No.42067 of 2002, which were dismissed. In the ensuing Writ Appeal No.249 of 2002, the Division Bench upheld the G.O. in ***State of Tamil Nadu v. Pallivasal Primary School*, 2004 (2) LW 591**. However, it directed that the salaries already paid should not be recovered, and that the services rendered before completion of the one-month Child Psychology training be reckoned only for pension purposes.

> *"7. So far as the approvals / confirmation is concerned, Government was not under any duty to approve or confirm the appointment of appellants / petitioners who did not possess the qualifications prescribed when, they were*

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improperly appointed to the posts. Their position cannot be equated to that of those who possess the qualification and had been duly appointed. Their remaining in their post was only by reason of a sympathetic view taken by the Division Bench which had upheld the Government Order which had directed that persons with B.Ed. Qualification are not to be appointed in Secondary Grade vacancies.

8. Their right to be regarded as persons eligible for confirmation / approval can be said to arise only after they acquired, after their training, a minimum prescribed qualification. The Government here has shown great concession to them by allowing them to retain their position even without obtaining the requisite diploma or certificate in child psychology by giving to them training in child psychology. We see nothing wrong in the Government directing that their approval / confirmation can only be on and after the date they complete the training. Their past service however shall count for pension.

9. It was submitted by some of the counsel for the appellants / petitioners that there was delay in providing training. Complaint of this nature cannot be made by such of these persons. Even according to them over 1000 persons have been appointed contrary to the G.O. Ms. No: 559. The fact that Government took some time to formulate a scheme and provide training to them in batches cannot be a matter for complaint especially as the continued functioning of these persons as teachers was not disturbed on account of the time required by the Government for providing training.

10. A submission was also made for some of those among the appellants / petitioners that they have not been paid salary by the State. The State was not under any

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obligation to pay salary to persons who were not qualified and who have been appointed contrary to Government Order. Such persons must have been paid some amount by the management who employed them. Government cannot be directed to shoulder that liability for payment to such persons and in cases where payment had not been made. What has been said by us in relation to the persons who had received salary and recovery from whom has been held by us to be unwarranted, would apply to the Government as well as any direction to it to pay salary to a large number of such persons who did not, at the relevant time, possess the prescribed qualification, would result in a huge burden being imposed on the Government even when it had committed no wrong.

11. We, therefore, allow the writ appeals and writ petitions to the limited extent of directing that no recovery be made from the persons to whom the Government had already released grants and paid salaries. The writ appeals / writ petitions are disposed of accordingly. Connected miscellaneous petitions are closed."

21. The effect of G.O.Ms.No.155 is evident from Clauses 3(iii) and 3(viii), which are extracted in ***Sundaravel Raj*** (supra). Clause 3(iii) provides that, since the appointments were made contrary to the Government Order and the writ petitions filed by the appointees had been dismissed, approval could not be granted from the date of appointment, nor could salary be paid from that date. The appointees were to be approved only from the date they completed the child psychology training. Clause 3(viii) provides that the service rendered without

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approval shall not be counted, in recognised private schools, for promotion, pay fixation or pension. In ***Pallivasal*** (supra), the Hon'ble Division Bench set aside only the direction for recovery of salaries and, as regards Clause 3(viii), directed that the earlier service shall count for pension. The rest of the Government Order was upheld.

22. A perusal of the said judgments makes it clear that the initial appointment is saved only for computing the length of service for pension and not for other purposes such as increment, pay and allowances, Special Grade or Selection Grade. This was also clearly captured in the judgment of this Court in ***Sundaravel Raj*** *(supra),* where the Division Bench set aside the direction of the Writ Court to pay salary from the date of original appointment, and the review against that judgment was dismissed.

23. The petitioners place reliance on the decisions in ***K. Panchanathan*** and ***C. Singarayan*** and on the consequential proceedings of the educational authorities. In ***Sundaravel Raj*** *(supra)*, however, the Division Bench declined to follow the Single Bench decisions cited before it, since they had neither examined the full effect of G.O.Ms.No.155 and the conditions stipulated therein nor taken note of ***Pallivasal*** *(supra)*. The Division Bench added that a wrong decision cannot be treated as a precedent. That reasoning applies with equal force

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to the decisions relied on by the petitioners, and the proceedings of the authorities issued in their wake cannot confer on the petitioners a right which G.O.Ms.No.155, as upheld by the Division Bench, does not recognise.

24. In the light of the aforesaid decisions, the issue has long been settled, and the petitioners cannot seek to re-agitate the same at this belated stage. The issue of delay and laches squarely arises in the present case.

25. The learned counsel for the petitioners placed reliance on the judgment of the Hon'ble Supreme Court in ***M.R. Gupta v. Union of India***, reported in **1995 (5) SCC 628**, in support of the contention that the grievance of the petitioners is founded on a continuing wrong giving rise to a recurring cause of action. The relevant portion is extracted hereunder:

> "*...It is no doubt true that if the appellant's claim is found correct on merits, he would be entitled to be paid according to the properly fixed pay scale in the future and the question of limitation would arise for recovery of the arrears for the past period. In other words, the appellant's claim, if any, for recovery of arrears calculated on the basis of difference in the pay which has become time barred would not be recoverable, but he would be entitled to proper fixation*

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of his pay in accordance with rules and to cessation of a continuing wrong if on merits his claim is justified. Similarly, any other consequential relief claimed by him, such as, promotion etc. would also be subject to the defence of laches etc. to disentitle him to those reliefs." (emphasis supplied)

26. On a perusal of the aforesaid judgment, this Court is of the view that the ratio laid down therein is not applicable to the facts of the present case. In that case, the appellant was a person in service whose pay had been wrongly fixed, and each payment of salary computed on such erroneous basis was held to give rise to a fresh cause of action. The grievance of the petitioners herein stands on an entirely different footing. The petitioners seek to have their services as Secondary Grade Teachers counted from the date of their respective first appointment for the purposes of fixation of pay, sanction of annual increments and grant of selection grade, whereas their regular appointments were approved only with effect from the year 2003, in terms of G.O.Ms.No.155 of 2002. The said approval was a single and completed act, which the petitioners did not assail. The payment of salary thereafter is merely a consequence of that act and does not constitute a continuing wrong so as to furnish a recurring cause of action.

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27. Moreover, even in ***M.R. Gupta***, the Hon'ble Supreme Court clearly held that the claim for arrears relating to the past period, and any other consequential relief, would remain subject to the bar of limitation and the defence of laches. The petitioners herein seek the benefit from the date of first appointment, which is precisely the relief that stands barred. The said decision is, therefore, of no assistance to the petitioners.

28. The petitioners have also relied upon the judgment in ***Suvisesha Muthu v. Director of Public Health*** in **W.P.No.12218 of 2010,** which held as follows:-

> *"44. Therefore, from the principles as enumerated in all those Judgments referred to above, would undisputedly disclose that on the ground of delay and laches in approaching the authorities, or in turn approaching the Court of Law for getting the remedy arising out of the statute the avenue cannot be closed by taking a different view. A consideration of delay and laches is only the matter of discretion of the Court and it does not affect the jurisdiction of the Court. Moreover, if acceptable reasons are given by the litigant for the delayed approach to the Court of Law, the same can be accepted in order to decide as to whether, the petitioner can get any relief arising out of his substantive right flow from the statute. Therefore, by applying these broad principles as enumerated in the above cases, in the present facts and circumstances of the case projected before this Court, this Court has no*

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hesitation to hold that the prayer sought for by the petitioner cannot be denied.

…

48. Therefore, this Court feels that even according to the impugned order, the plea of delay and laches had not been raised at all by the respondents. The said plea as has been mainly projected by the respondents' side through the learned additional Government Pleader by citing the decision of this Court and similar orders passed by the learned Single Judge, would no way helpful to the respondents in this case and therefore, the issue of delay and laches raised by the respondents is hereby rejected."

29. On a reading of the said judgment, it is evident that, the order impugned therein did not rest on the ground of delay and laches, and it was in that context that this Court held that it was not open to the respondents to improve upon the impugned order by raising a new plea at the time of hearing. The Court also observed that the consideration of delay and laches is a matter of discretion, which may be exercised in favour of a litigant who furnishes acceptable reasons for the delay. In the present case, however, the petitioners have not offered any acceptable explanation for their prolonged silence following the approval of their regular appointments in the year 2003. The ratio of the said judgment is, therefore, not attracted to the facts of the case on hand.

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30. The petitioners also contended that, since similarly placed persons had obtained relief, the same benefit should be extended to them. In this regard, The principle laid down by the Hon'ble Supreme Court in ***State of Uttar Pradesh v. Arvind Kumar Srivastava***, reported in **(2015) 1 SCC 347**, is apposite. The Hon'ble Supreme Court has held that persons who do not challenge the alleged wrongful action in their own cases and remain silent, but subsequently approach the Court only after their counterparts succeed, cannot claim the benefit as a matter of right and may be treated as fence-sitters. The relevant paragraph is extracted hereunder:

> "*22.2. However, this principle is subject to well-recognised exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.*"

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31. Applying the above principle, this Court finds that the petitioners have been a fence-sitter as they have not approached the Court when the appointments were made in the year 2003, nor did he challenge the same thereafter, but has waited for 15 long years and filed the present writ petitions. No cogent explanation has been offered for such inordinate delay, and the petitioners cannot claim the benefit as a matter of right.

32. Moreover, the petitioners are not entitled to any relief at this distant point of time. Accordingly, this Court is of the view that the writ petition fails and is hereby dismissed. There shall be no order as to costs.

03-11-2026

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

To

1. The Secretary To Government
   School Education Department, Fort.St.George, Chennai 600 009

2. The Director Of School
   Education, Dpi Compound College Road, Nungambakkam,

   Chennai 600 006

3. The District Educational

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Officer, Thanjavur District, Thanjavur

4. The District Educational
Officer, Tiruchirappalli District, Tiruchirappalli

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RAJNISH PATHIYIL, J.
MM

order in
WP(MD) No. 14390 of 2018

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