

W.A.(MD)No.2243 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.2243 of 2024
and
C.M.P.(MD)No.15658 of 2024**

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Education Department, Secretariat,
Fort St. George, Chennai - 9.
- 2.The Director of Elementary Education,
College Road, Chennai - 6.
- 3.The District Educational Officer,
Thirupthur, Sivagangai - 630 211.
- 4.The Block Educational Officer -I,
Thirupathur, Sivagangai District.

... Appellants

Vs.

1. A.R.Pandimeenal
- 2.The Correspondent,
S.P.D. Kalasalai Middle School,
Kandavrayanpatti,
Thirupathur Taluk,
Sivagangai District.

... Respondents



W.A.(MD)No.2243 of 2024

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.11912 of 2022 dated 21.06.2024 on the file of this Court.

For Appellants : Mr.C.Venkateshkumar,
Spl. Government Pleader.

For Respondents : Mr.K.Jeyamohan for R1

JUDGMENT
(By G.R.SWAMINATHAN, J.)

The State government has filed this writ appeal questioning the order dated 21.06.2024 passed by the learned Single Judge allowing W.P.(MD)No.11912 of 2022 filed by the respondent herein (herein after referred as writ petitioner).

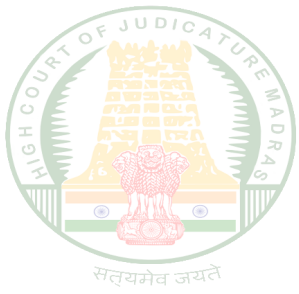
2.The writ petitioner was originally appointed as Pre-Vocational Instructor on 19.02.1988. Her appointment was also duly approved. When vacancy arose in the post of Secondary Grade Teacher on 02.08.1995, the writ petitioner was appointed to the said post. Her appointment as Secondary Grade Teacher was also approved by the competent authority on 24.09.1996. But then, her appointment also came



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under controversy in view of issuance of G.O.(Ms)No.559 Education, Science and Technology Department dated 11.07.1995. The government had specifically banned appointment of over-qualified teachers for the post of Secondary Grade Teacher. The writ petitioner herein was an over qualified candidate. These issues were subsequently resolved in a batch of writ petitions which resulted in issuance of G.O.(Ms)No.155 dated 03.10.2002. That was also put to challenge in W.A.No.249 of 2002 dated 02.04.2004 (State of Tamil Nadu Vs. Pallivasal Primary School, Rep. By its Correspondent, Kudukulathur.). Paragraph Nos.6, 7 and 8 of the said judgment read as follows:

“6. The Government Order No: 155 directs recovery of salary paid to the appellants/ petitioners on the ground that prior to their completing the training, they could not have held the posts that were held by them. There is no dispute about the fact that these persons had actually worked. Salary paid to persons who had actually rendered service cannot be regarded as amount paid as gratis. More over the Division Bench had noticed the fact that these persons had been working and had indicated that it would be equitable to allow them to remain in employment. It was left to the Government to device a scheme by which these persons could acquire qualifications which were essential for holding the post to which they had been appointed at a



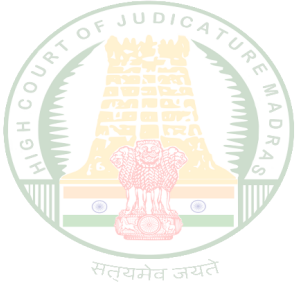
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time when they did not possess the qualification. The salary that had been paid to them during that period when they were actually teaching, even though without the requisite qualifications, in our view, is not an amount which they should be called upon to repay. It has been noticed by the Division Bench which upheld the G.O. Ms. No: 559 that most of these teachers came from a poor background, that it was after a great deal of effort before that they could equip themselves to a limited extent and thereafter had been working in the schools for meager salaries. Directing such persons to repay huge amounts, huge amounts because the entire salary paid over a period of nearly nine years would amount to inasmuch as over five lakhs of rupees per person, would cause untold hardship to such teachers. We, therefore, set aside that part of the Government Order namely sub-para (vii) of Para 3 which directs recovery from these teachers.

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 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



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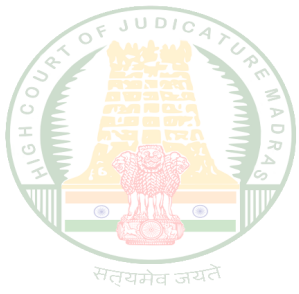
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Order which had directed that persons with B.Ed. Qualification are not to be appointed in Secondary Grade vacancies.

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.”

3.As per the said judgment, the candidates in question had to undergo child physiological training and their appointment will be approved from the date when they completed the training. Accordingly, a fresh order of approval was issued 21.11.2003 by the District Educational Officer, Sivagangai. The copy of the said order has been enclosed in the typed set of papers and it reads as follows:-

□ அதன்படி திருமதி.ஆர்.பாண்டிமீனாள் பட்டதாரி ஆசிரியர்
காளையார்கோவில் மாவட்ட ஆசிரியர் பயிற்சி நிறுவனத்தில்



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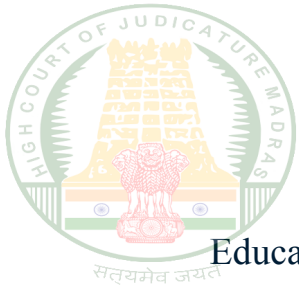
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02.05.2003 முதல் 31.05.2003 முடிய பயிற்சி பெற்றதினை
தொடர்ந்து 01.06.2003 ஞாயிறு அரசு விடுமுறை
என்பதால், இவ்வாசிரியரின் நியமனம் 02.06.2003 முதல் இடைநிலை
ஆசிரியர் தரத்தில் ரூ.4500-125-7000 என்ற ஊதிய விகிதத்தில்
கீழ்க்கண்ட நிபந்தனையின் பேரில் ஒப்புதல் வழங்கப்படுகிறது.□

4.This order was accepted by the writ petitioner and was never put to challenge. Therefore, the writ petitioner's appointment can be reckoned only with effect from 02.06.2003 and not from the original date of appointment.

5.The writ petitioner however wanted conferment of selection grade and special grade by reckoning her date of appointment as 07.02.1996. The Director of Elementary Education, Chennai rejected the said request vide order dated 02.08.2019. The learned Single Judge set aside the said order and allowed the writ petition. While doing so, the true effect of the proceedings dated 21.11.2003 has not been taken note of.

6.Vide order dated 06.06.2025 in W.A.(MD)No.254 of 2023 (D.Sekar Franklin Vs. The State, Rep. by the Secretary to Government,



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Education Department, Chennai), we had held that when appointment as Secondary Grade Teacher was after issuance of G.O.(Ms)No.559 dated 11.07.1995, the case of the appointee will have to be determined only with reference to the parameters and norms laid down in *Pallivasal* judgment. This aspect was not considered by the learned Single Judge. Hence, the order of the learned Single Judge is set aside and the writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.,) & (K.R.S. J.,)
06.08.2025

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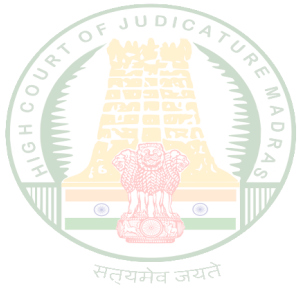
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