



W.A.No.1792 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2024

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

W.A.No.1792 of 2017 and
C.M.P.No.22592 of 2017 and
C.M.P.No.21242 of 2021

- 1.The Secretary to Government,
School Education Department,
Fort St. George,
Chennai – 600 009.
- 2.The Director of School Education,
DPI Campus,
College Road,
Chennai – 600 006.
- 3.The Joint Director of School Education
(Vocational Education),
DPI Campus,
College Road, Chennai – 600 006.

... Appellants

Vs.

The Tamil Nadu Higher Secondary Vocational
Teachers Welfare Association,
rep. By its State President,
Thiru V. Somasundaram,
No.19/10, Saravana Street,
Kondithope,
Chennai – 600 079.

... Respondent



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Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying to set aside the order dated 20.02.2014 made in W.P.No.28199 of 2008.

For Appellants : Mr.U.M.Ravichandran
Special Government Pleader

For Respondent : Mr.S.Kamadevan

JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

This intra Court appeal has been directed against the order passed by the Writ Court dated 20.02.2014 made in W.P.No.28199 of 2008.

2. The respondent i.e. the Tamil Nadu Higher Secondary Vocational Teachers Welfare Association was the writ petitioner who filed the said writ petition seeking for writ of mandamus directing the respondents therein to regularise the services of the members of the petitioner Association from 20.09.96 in the post of Vocational Instructor Grade I with all consequential and other attendant benefits.

3. The facts in nutshell which are required to be noticed for disposal of this writ appeal reads thus:



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(i) That in the year 1978 Higher Secondary School curriculum has been introduced where the Vocational Stream Education also since had been introduced there was a necessity to engage Vocational Instructors on part time basis to teach classes in Vocational Stream Education in Higher Secondary Schools in number of Schools in the State of Tamil Nadu.

(ii) Those part time Vocational Teachers since had been engaged from 1978 – 1979 and had been working for several years, at one point of time i.e., in 1990 there were 2956 Part Time Vocational Teachers who had been brought under time scale of pay.

(iii) Thereafter still there were 361 fully qualified Part Time Vocational Teachers available who had been working in various Schools had not been brought under regular time scale of pay or not been regularised. Therefore, the Government had come forward to issue G.O.Ms.No.680 Education Science & Technology (VE) Department dated 20.09.96 under which a list of such Part Time Vocational Teachers who had not been regularised had been prepared, based on which, under the said G.O. 235 such Teachers had been regularised. Therefore, those



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Teachers had been brought under regular time scale of pay as well as in the regular job with effect from the date of issuance of G.O.Ms.No.680 i.e. 20.09.96.

(iv) Still there are 126 such Teachers yet to be approved and they had been working on temporary basis as Part Time Vocational Teachers even though they had been fully qualified to hold the post.

(v) When this has been brought to the notice of the Government, having accepted the proposal submitted by the Directorate, the Government had come forward to issue another Government Order in G.O.Ms.No.74 School Education (VE) Department dated 10.06.2002.

(vi) In the said G.O.Ms.No.74, the following import has been made by the Government.

“3. பள்ளிக் கல்வி இயக்குநரின் பரிந்துரைகளை நன்கு பரிசீலனை செய்து அரசு கீழ்க்கண்டவாறு ஆணையிடுகிறது.

(i) தற்போது முழுநேர தொழிற்கல்வி ஆசிரியர்களாக்க உத்தேசிக்கப்பட்டிருக்கும் 361 முழுக்கல்வித் தகுதி பெற்ற பகுதி நேர தொழிற்கல்வி ஆசிரியர்களில், ஏற்கனவே 235 நபர்களுக்கு அரசாணை



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நிலை எண்.680 பள்ளிக் கல்வித்துறை நாள் 20.9.96 பகுதி நேர ஆசிரியர்களாக நியமன ஒப்புதல் வழங்கப்பட்டபோது, விடுபட்டவர்களாக பள்ளிக் கல்வி இயக்குநரால் குறிப்பிடப்படும் 126 முழுக்கல்வித்தகுதி பெற்ற பகுதி நேர தொழிற்கல்வி ஆசிரியர்களை முதற்கண் பகுதிநேர தொழிற்கல்வி ஆசிரியர்களாக கருத்தியலாகக் (Notionally) கருதி 20.9.96 முதல் முன்தேதியிட்டு பணப்பயன் ஏதும் இன்றி நியமன ஒப்புதல் வழங்கப்படுகிறது.

(ii) பார்வை இரண்டில் படிக்கப்பட்ட அரசாணையில் பகுதிநேர தொழிற்கல்வி ஆசிரியர்களாக நியமன ஒப்புதல் வழங்கப்பட்ட 235 முழுக்கல்வித்தகுதி பெற்ற பகுதி நேர தொழிற்கல்வி ஆசிரியர்கள் மற்றும் மேலே பத்தி 3(i)ல் பகுதி நேரத்தொழிற்கல்வி ஆசிரியர்களாக நியமன ஒப்புதல் வழங்கப்படும் 126 முழுக்கல்வித்தகுதி பெற்ற தகுதிநேர தொழிற்கல்வி ஆசிரியர்கள் ஆக மொத்தம் 361 முழுக்கல்வித் தகுதிபெற்ற பகுதிநேர தொழிற்கல்வி ஆசிரியர்களையும் மாநிலத்தில் காலியாக / உபரியாக உள்ள தொழிற்கல்வி ஆசிரியர் / இடைநிலை ஆசிரியர் பணியிடங்களில், தொழிற்கல்வி ஆசிரியர் நிலை-11 என்ற பெயரில், முழுநேர தொழிற்கல்வி ஆசிரியர்களாக இவ்வாணை வெளியிடும் நாள் முதல் இடைநிலை ஆசிரியர் ஊதிய விகிதத்தில், உட்படுத்தி அரசு ஆணையிடுகிறது.

(iii)மாவட்டங்களில் புதிதாக தொடங்கப்படவுள்ள தொழிற்பயிற்சி பள்ளிகளில் மேலே பத்தி 3(ii)ல் இடைநிலை ஆசிரியர் ஊதிய விகிதத்தில் உட்படுத்தி ஆணையிடப்பட்டுள்ள தொழிற்கல்வி ஆசிரியர்களை பயன்படுத்திக் கொள்ளுமாறு பள்ளிக் கல்வி இயக்குநர்



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கேட்டுக் கொள்ளப்படுகிறார்.

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4.இவ்வாணை நிதித்துறையின் அ.சா.எண்.776/FS/P/2002 நாள் 27.4.2002ல் பெறப்பட்ட ஒப்புதலுடன் வெளியிடப்படுகிறது.

(ஆளுநரின் ஆணைப்படி)

வி.கு.சுப்புராஜ்,
அரசு செயலாளர்.

(vii) Therefore, the remaining 126 such Part Time Vocational Teachers who were hitherto had not been regularised had also been regularised by way of approval notionally with effect from 20.09.96 a date on which the earlier G.O.Ms.No.680 was issued on par with the remaining persons who had already been approved.

(viii) Despite this development i.e. issuance of G.O.Ms.No.74 either unmindful of the same or without knowledge about the G.O.Ms.No.74, the respondent Association on behalf of its members who are among the 126 Teachers as stated supra had approached the Writ Court and filed the said writ petition in W.P.No.28199 of 2008 seeking the said prayer.



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(ix) The Writ Court also having heard the said writ petition has

passed the following order:

“4.Although the learned Additional Government Pleader appearing for the respondents sought time to take further instructions in this matter, this Court, taking note of the fact that the matter is pending from 2008 and considering the G.O.Ms.No.680 dated 20.9.96, which clearly states that the Government had decided to approve the appointments of 235 fully qualified Vocational Instructors made against the Government Order issued in G.O.Ms.No.991, Education dated 16.7.90, relaxing the provisions of the said Government Order, irrespective of the fact whether they were approved by the Chief Educational Officers earlier or not, and to regularise their service as Single/Double Part Time Vocational Instructors from the date of issuance of the G.O.Ms.No.680 dated 20.9.96, finds that the prayer sought for by the petitioner is reasonable and falls within the G.O.Ms.No.680, Education, Science and Technology (VE) Department dated 20.9.96. Therefore, this Court, by allowing the writ petition, directs the respondents to regularise the services of the members of the petitioner-Association in terms of the direction issued by the Government in G.O.Ms.No.680 dated 20.9.96 in the post of Vocational Instructor Grade-I without the monetary benefits from 20.9.96, but their service shall be taken into account



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for seniority and promotion only for the purpose of pensionary benefits. The said exercise shall be undertaken within a period of ten weeks from the date of receipt of a copy of this order. No costs.”

(x) Aggrieved over the said order passed by the Writ Court dated 20.02.2014, the State filed the present appeal.

4. Heard Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the appellants and Mr.S.Kamadevan, learned counsel appearing for the respondent Association.

5. On perusal of the impugned order, we find that, the development with regard to issuance of G.O.Ms.No.74 has not at all been brought to the notice of the learned Judge as the G.O.Ms.No.74 had been issued on 10.06.2002 and the very writ petition itself was filed only in the year 2008 and was disposed in the year 2014.

6. Had the issuance of G.O.Ms.No.74 been brought to the notice of the learned Judge, the learned Judge would have taken care of what was the import of the G.O.Ms.No.74 and accordingly a different order would have been passed.



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7. Be that as it may, the learned Judge had considered the import of G.O.Ms.No.680, under which 235 such Teachers out of total 361 who are available at the time of issuance of G.O.Ms.No.680 had been approved from the date of the G.O.Ms.No.680 i.e. 20.09.96.

8. The remaining Teachers who are majority of the members of the writ petitioner Association since had also been similarly placed as they have been working from 1978 or thereafter, they are also entitled to such benefit of approval and regularisation with effect from 20.09.96. This position having been considered by the learned Judge, he was pleased to give a direction in para 4 of the order impugned as has been extracted herein above whereby such a direction was given by the learned Judge to approve the appointment of these Teachers i.e. 126 including the members of the petitioner Association and they be extended the benefit from 20.09.96 but their service shall be taken into account for seniority and promotion only for the purpose of pensionary benefits and not for any monetary benefits.

9. In fact, this direction was given by the learned Judge through the impugned order independently on merits without taking taken note of



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G.O.Ms.No.74 itself as it was admittedly not brought before the learned Judge by both sides.

10. However, the fact remains that, by issuance of G.O.Ms.No.74 dated 10.06.2002, the Government had come forward to approve the appointment of the remaining 126 Teachers, among them, the members of the petitioner Association also are included notionally from 20.09.96 the date on which the G.O.Ms.No.680 was issued on par with the other 235 Teachers who have already been approved for the purpose of regularisation. The Government in G.O.Ms.No.74 at para 3(ii) has further made it clear that, the 126 as well as the earlier 235 totally 361 Vocational Teachers who had been fully qualified to hold the post are to be appointed in the vacancies which are available throughout the State and also in excess vacancies, if the sanctioned vacancies are not available as Vocational Instructor/Secondary Grade Teacher at Vocational Instructor Grade – II. By making such an appointment, these Teachers would be entitled to get all monetary benefits with effect from the date of issuance of G.O.Ms.No.74 i.e. 10.06.2002. However, since their appointment has to be approved with effect from 20.09.96 of course notionally, they are entitled to get such approval and regularisation with



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effect from 20.09.96, however they are not entitled to get any monetary benefits between 20.09.96 and 10.06.2002. This is the import of G.O.Ms.No.74 which has been issued already in the year 2002 i.e., well prior to the filing of the writ petition and disposal of the said writ petition.

11. Despite these factors which are available, it seems the Government or the Department concerned was of the view that, these 126 Teachers including the members of the petitioner Association are entitled to get appointment or regularisation or approval only with effect from a date i.e. 10.06.2002 or any other subsequent date where the post become vacant for the purpose of accommodating these Teachers.

12. Only with that impression they thought that the order passed by the Writ Court which is impugned herein is detrimental to their Scheme of regularisation of these Teachers and also it will pinch the Government exchequer, therefore for these reasons probably the Department or the State has come out with the present intra Court appeal, as has been projected by Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the appellants.



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13. However, the fact remains that it is not on the basis of the order passed by the Writ Court, such a gesture had been shown by the Government, in fact the Government had come forward to issue G.O.Ms.No.680 as early as on 20.09.96 under which 235 Teachers had been regularised or approved with effect from 20.09.96. Only by inviting the theory of parity, the learned Judge had given direction in the order impugned to extend the same benefits to the remaining people of 126 including the members of the petitioner Association, however the learned Judge has also made it clear that, such a benefit to the remaining people from 20.09.96 is only notionally and they will be entitled to get the benefits only subsequently.

14. However, the fact remains that on 10.06.2002 itself G.O.Ms.No.74 was issued under which from the date of the G.O. these Teachers have become eligible to seek for the benefits on par with the remaining Teachers who have been extended under G.O.Ms.No.680, when that being the position, no other alternative or artificial date can be fixed by the Government to extend these benefits to these Teachers or individual Teachers on the ground of want of vacancy or any other reason.



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15. The language used in para 3 of the G.O.Ms.No.74, as has been extracted herein above, has made it very clear that these 126 Teachers are eligible to get approval with effect from 20.09.96 notionally and they shall be posted in Vocational Teacher post or Secondary Grade Teacher post which are vacant or if the posts are not vacant, they should be placed and accordingly from the date of issuance of G.O. i.e., dated 10.06.2002 they are entitled to get all monetary benefits for the post of Vocational Instructor/Secondary Grade Teacher at Vocational Instructor Grade – II.

16. When all this Scheme has been made by the Government under the two Government Orders viz., G.O.Ms.No.680 and G.O.Ms.No.74 as stated supra, these Teachers also since are eligible to get such benefits notionally from 20.09.96 and monetarily from the date of G.O. i.e. 10.06.2002 that position cannot be changed.

17. Therefore, if any individual orders are passed in respect of individual Teachers on different dates for the purpose of the monetary benefits and also if the Government or the Department wants to calculate



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the period of service benefits of pensionary benefits from 10.06.2002 instead of 20.09.96 that would be a wrong approach as it would go against the import of the G.O.Ms.No.680 as well as the G.O.Ms.No.74. Therefore considering all these aspects we are of the view that, this writ appeal can be disposed with the following orders:

(i) That the order passed by the learned Judge independently outside the scope of G.O.Ms.No.74 is to be sustained, but at the same time since the G.O.Ms.No.74 had already been issued on 10.06.2002 under which all the benefits have been extended to the 126 remaining Teachers including the members of the writ petitioner Association as per the import of the G.O.Ms.No.74 especially para 3(i) and (ii) such a benefit of approval, regularisation as well as monetary benefits should be extended to these Teachers.

(ii) As a matter of clarification, we state that, these Teachers are entitled to get approval and regularisation with effect from 20.09.96 notionally and are entitled to get the monetary benefits from 10.06.2002. The period between 20.09.1996 and 10.06.2002 shall be taken as a notional



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period for all service benefits except monetary benefits and such a service benefit includes the pensionary benefits and accordingly the benefits shall be calculated including the pensionary benefits and be extended to these Teachers within a period of three months from the date of receipt of a copy of this Judgment. If those Teachers have already retired or if anyone is still working as he or she, they are entitled to get the benefit of salary as per her or his seniority in the post of Vocational Instructor with effect from 20.09.96.

18. With these clarifications and directions, this Writ Appeal is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[R.S.K., J.] [K.B., J.]
22.02.2024

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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