



W.A.(MD)No.2115 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.10.2024

CORAM

**THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN
AND
THE HON'BLE MS.JUSTICE R.POORNIMA**

**W.A.(MD)No.2115 of 2021
and
C.M.P.(MD)No.9810 of 2021**

1.The Secretary to Government,
Government of Tamil Nadu
School Education Department,
Fort St. George,
Chennai – 600 009.

2.The Joint Director of School
Education (VOC), College Road,
Chennai -06.

... Appellants

vs

R.Kayalvizhi

...Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order of this Court dated 18.06.2021 passed in W.P(MD)No.16014 of 2019.

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For Appellants : Mr.N.Ramesh Arumugam
Government Advocate

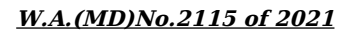
For Respondent : Mr.R.Saravanan

JUDGMENT

The respondents in W.P.(MD)No.16014 of 2019, aggrieved by the order of the learned Single Judge, dated 18.06.2021 by which order, the learned Single Judge had allowed the Writ Petition, have filed the present Writ Appeal.

2. The learned Single Judge in the course of the order had stated as follows:

8. In view of the above facts, the petitioner is entitled to the relief sought for in the Writ Petition. The respondents are directed to fix the time scale of pay to the petitioner from 10.06.2002, when the petitioner's juniors S.Sivagamasundari and N.Ramachandran were brought on time scale of pay and regularize her service, when her juniors were regularized and pay all arrears and salary from the year 2002.



5. G.O.(Ms).No.74, School Education Department, dated 10.06.2002, will not strictly apply to the facts of the writ petitioner and therefore, need not be traversed by us. Rather, Government Order in G.O.(Ms.)No.35, again had been passed by the School Education Department, dated



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09.02.2007. By this Government Order, the Government had taken into consideration the appointment of Vocational Teachers through Parent Teachers Association and the representation given by such appointees to regularize the service. By the said Government Order, it had been stated that on and from the date on which the requisite qualification through discharge duty as Vocational teachers, their services could be regularized.

6. The writ petitioner had been knocking the door of this Court on several occasions. She had been appointed as part time Vocational Instructor, (dress, designing and making) on 27.06.1996 in Government Girls Higher Secondary School, Pattukkottai. She was working as double part time vocational instructor and according to her, she had taken 24 periods per week. At that time, when she was so appointed, she only had 12th standard qualification and she was not qualified to work as vocational instructor (dress, designing and making). It is the grievance of the learned Government Counsel on behalf of the appellant that the petitioner had been appointed by the Parent Teachers Association of the School and that she had an additional qualification, viz., she was the daughter of the President of the Parent Teacher Association. It is contended that the very appointment



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is improper. It is that ground which has been urged by the learned Government Counsel who argued the Writ Appeal. It is stated that the entry of the writ petitioner's service is questionable and therefore, the Court cannot issue a Writ of Mandamus, directing regularization of the service. But, as stated above, the writ petitioner had approached the Court on several occasions and various orders have been passed.

7. After one of the orders, consequent to the filing of a Contempt Petition by the petitioner herein, by means of a proceedings of the Director, School Education Department, he had given a list of 44 part time vocational teachers and stated that they will be brought into regular service. In that list of 44 teachers, the writ petitioner's name was also found in Serial No.36. Based on this particular assurance held by the respondents, the contempt petition had been closed. Subsequently, the writ petitioner had filed W.P.No.3285 of 2011 in the nature of writ of certiorarified mandamus, seeking to quash the order dated 03.03.2008, passed by the second respondent, Director of School Education Department and to direct the respondents to appoint her as vocational instructor on regular time scale from the approved list of 201 vocational instructors by G.O.(Ms.)No.35,



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Education (VE) Department, dated 09.02.2007. That writ petition came up for consideration before a learned Single Judge of this Court and paragraph No.7 of the order of the learned Single Judge is extracted as follows:

“7. From the above materials, it is clear that the petitioner is entitled to the benefit of G.O.Ms.No.74, School Education Department, dated 10.06.2002 and the said benefit was given to the petitioner by the Tribunal, by order, dated 16.04.2003 in O.A.No.1314 of 2003 and by this Court in Writ Petitions referred to above. Even though the petitioner's name was included in G.O.Ms.No.35, School Education Department, dated 09.02.2007, for bringing her in time scale of pay, the petitioner was not granted the said relief, but her juniors were granted the said relief.”

8. The learned Single Judge has very categorically stated that no issue had been raised regarding qualification and eligibility of writ petitioner to be appointed as vocational instructor on regular time scale. The issue of qualification has come up for consideration, since the learned Government Counsel had brought to the notice of this Court, G.O(Ms.)



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No.6, School Education Department (VE) Department, dated 04.01.2000, wherein, the qualification had been given for various vocational teachers and most specifically for dress, designing and making. It has been stated that the requisite qualification is regular Degree in regularized University in the State or Degree of equivalent standard in vocational subject and Home Science area or Diploma in the relevant vocational subject awarded by the State Board of Technical Education or any other recognized Board or Institutions or B.Sc (Home Science) from a recognized University in the State or a degree of equivalent standard and practical experience for a period of one year in the relevant period. So far as the practical experience is concerned, the petitioner had stated that she had taken sufficient number of classes.

9. It can be considered that she has requisite practical experience, The educational qualification of the petitioner was obtaining Bachelor of Arts in History from Madras University, which was granted in May 1998 and later, obtaining Master of Arts in History, again from Madras University, which was granted in May 2004 and finally in the interregnum period she also qualified herself by getting a Diploma in Apparel



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Manufacturing Technology, conducted by the Apparel Training and Designs Centre, which is sponsored by the Apparel Export Promotion Council, Ministry of Textiles, Government of India, in December 2002. This was a one year course, commencing from January 2002 and the petitioner had completed it in December 2002. The observation of the learned Single Judge that her qualification is admitted is also borne by the further proceedings of the Joint Director, consequent to the order of the learned Single Judge in W.P.No.3285 of 2011 dated 12.12.2012, referred to supra, whereby, the Joint Director had brought the writ petitioner into regular service by proceedings in Na.Ka.No.8818/V1/E1/2011, dated 22.06.2018.

10. Unfortunately, he had brought her into regular service on and from 21.06.2018 and not on and from December 2002, the date on which the petitioner obtained her diploma in Apparel Manufacturing Technology. It must be stated that the diploma had been obtained from an institute, which had been sponsored by the Ministry of Textiles, Government of India. The requisite qualification is required as stated above, was also a diploma in the relevant vocational subject awarded by the State Board of



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Technical Education or any other recognized Board or Institutions.

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11. We are confident that the respondents / appellants herein would not have any objection for the Ministry of Textiles, Government of India, sponsoring an institute to be eligible to grant diploma certificate in Apparel Manufacturing Technology. This diploma had been obtained by the writ petitioner, after obtaining a degree and later, after obtaining diploma, she had also obtained post graduate degree. Therefore, the question of educational qualification of the writ petitioner need not be examined once again.

12. To reiterate, the Director of School Education had recognized the said educational qualification of the writ petitioner and brought her into regular service on and from 21.06.2018. The present writ petition has been filed that it should be brought into regular service in accordance with G.O. (Ms.)No.74, School Education Department, dated 10.06.2002. But, as stated above, the said Government Order would not directly come to the rescue of the petitioner herein and rather, it would be G.O.(Ms.)No.35 dated 09.02.2007. By the said Government Order in G.O.(Ms.)No.35, it had been



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provided as follows:

“(I) முழுக்கல்வி தகுதி பெறாத 12 பகுதிநேர தொழிற்கல்வி ஆசிரியர்களுக்கு குறுகியகால பயிற்சி வழங்கப்பட்டு அவர்களை தொழிற்கல்வி ஆசிரியர் இரண்டாம் நிலை பணியிடத்தில் அவர்கள் தேர்வில் தேர்ச்சி பெற்ற நாளான 08.12.1999 முதல் உட்படுத்தி தற்போது அரசாணை எண்.46, பள்ளிக்கல்வி, நாள் 12.09.2008-ல் ஆணை வெளியிடப்பட்டுள்ளது.

(II)

(III) பெற்றோர் ஆசிரியர் கழக நிர்வாக நிதியிலிருந்து சம்பளம் பெற்று சுமார் 622 பகுதிநேர தொழிற்கல்வி ஆசிரியர்கள் அரசு அனுமதி பெறாத பணியிடங்களில் பணிபுரிந்து வருகின்றனர். இவர்கள் அனைவரும் தொழிற்கல்வி ஆசிரியர்களுக்கான முழு தகுதி பெற்றுள்ளனர். இவர்களில் 20.09.1996ற்கு முன் பகுதிநேர தொழிற்கல்வி ஆசிரியர்களாக நியமனம் பெற்று 20.09.1996ற்கு பிறகு முழுக்கல்வித் தகுதி பெற்ற 44 பகுதிநேரதொழிற்கல்வி ஆசிரியர்களும் மற்றும் வேறு வேறு பள்ளிகளில் தொடர்ச்சியாக பணிபுரியும் இரண்டு பகுதிநேர தொழிற்கல்வி ஆசிரியர்களும் அடங்குவர்.”

13. According to the aforementioned provision, the individual would have to be brought into regular service from the date of obtaining regular qualification. The petitioner had obtained the said qualification in



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December 2002.

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14. The learned Government Counsel for the appellants further placed reliance on the order of a Division Bench in W.A. No.730 of 2019 etc batch, (*The Government of Tamil Nadu, represented by its Secretary, School Education Department, Chennai, V. S.Vijaya Santhakumar and another*), wherein, the Division Bench had stated that though the first respondent therein had been brought into regular service, her inclusion was rectified by the Government, by a letter, dated 08.12.2008 and it was observed by the Division Bench that the said Government Letter dated 08.12.2008 had not been challenged by the first respondent therein.

15. The distinguishing factor between the present facts of this case and the facts of the case addressed by the Division Bench in the aforementioned case is that the petitioner's name has been included and not been excluded later, whereas, in the Writ Appeal cited by the learned Government Counsel, the inclusion of the first respondent therein was subsequently rectified and removed by the Government letter dated 08.12.2008.



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16. As a matter of fact, the further distinguishing factor is that the first respondent herein/ writ petitioner had been brought into regular service. The issue only is the date on which she should be brought into regular service and that is date on which she had obtained the requisite qualification. We find that the petitioner had obtained the requisite qualification in December 2002. The learned Single Judge, while allowing the Writ Petition had taken recourse to an alternate plea, namely, regularizing the petitioner from the date on which her juniors have been regularized. But, the petitioner should be viewed as being eligible from the date when she obtained regular qualification. Once she obtained regular qualification, the issue of junior or senior would not arise. She has to be regularized on service from that particular date onwards. In view of that particular fact, though we differ with the reasons of the learned Single Judge, we dismiss the writ appeal and direct the appellant to pass requisite order for regularising the writ petitioner in regular service on and from December 2002. Such order shall be passed within a period of twelve weeks from the date of receipt of copy of this order.



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17. The Writ Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

[C.V.K., J.] & [R.P., J.]
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Judgment made in
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