



W.A.(MD) No.284 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD) No.284 of 2018
and
C.M.P(MD)No.1723 of 2018**

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Fort St. George,
Chennai-600 009.

2.The Director of School Education,
College Road, Nungambakkam,
Chennai-600 006.

3.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

....Appellants/
Respondents 1 to 3

-VS-

1.Manikandan,
Part-time Vocational Teacher,
Kamaraj Municipal Higher Secondary School,
Pettai,
Tirunelveli-10.

... 1st Respondent/

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Writ Petitioner

2.The Headmaster,
Kamaraj Municipal Higher Secondary School,
Pettai, Tirunelveli-10.

...1st Respondent/
4th Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order,
dated 02.12.2016, passed in W.P.(MD) No.7219 of 2009.

For Appellants : Mr.D.Sadiq Raja
Special Government Pleader

For R1 : Mr.G.Thalaimutharasu

For R2 : No appearance

J U D G M E N T

[Judgment of the Court was made by K.RAJASEKAR, J.]

This intra-Court appeal has been preferred by the Government challenging the order of the learned Single Judge, directing the respondents to regularize the service of the petitioner in the post of Vocational Teacher (General Machinist) from the date of his initial appointment based on the G.O.Ms.No.35, School Education, dated 09.02.2007.

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2. The case of the writ petitioner is that, he was appointed as a part time Vocational Teacher (General Machinist) on 05.08.2004 by the Parent Teachers Association. Right from the date of appointment, he was served meritorious, sincere and unblemished service. In the year 2007, the Government passed G.O.Ms.No.35, School Education (VE) Department, dated 09.02.2007 permitting the School Education Department to regularize the part time vocational teachers. Subsequently, the Government has passed G.O.Ms.No.9, School Education (VE) Department, dated 06.01.2009 directing the second respondent that no new Vocational course should be started for the academic year 2007-2008 and no new Vocational Instructor should be appointed either by the School Management or by Parent Teachers Association. Based on the above Government Orders, the School Administration has not admitted the students in the Vocational course (General Machinist) for the academic year 2009-2010 since the course was not popular and it was also directed to wound up those courses as per the G.O.Ms.No.8 & 9, School Education (VE) Department, dated 06.01.2009, thereby the said course was wound up.



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3. Aggrieved over the above Government Orders, he has come forward with petition for a writ of mandamus seeking to direct the respondents 1 to 3 to allow and to continue the Vocational Course (General Machinist) for Std., XI and XII in the fourth respondent School in the future academic years in the light of G.O.Ms.No.9, School Education (VE) Department, dated 06.01.2009 as well as the letter of the second respondent in D.O.Lr.35980/V1/S1/2007, dated 13.03.2009. Consequently, direct the second and third respondents to regularise the petitioner's service in the post of Vocational Teacher (General Machinist) from the date of his initial appointment, i.e., on 05.08.2004 in view of G.O.Ms.No.35, School Education (VE) Department, dated 09.02.2007 .

4. After hearing the parties, the learned Single Judge has observed that G.O.Ms.No.35, School Education, dated 09.02.2007 is applicable to the case of the petitioner and held as follows:-

"(b) the respondents 2 and 3 are directed to regularize the service of the petitioner in the post of Vocational Teacher (General machinist) from the date of his initial appointment in view of the G.O.Ms.No.35, School Education, dated 09.02.2007;



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(c) the said exercise shall be done within a period of four weeks from the date of receipt of copy of this order."

5. However, the learned Single Judge has not directed the respondents to permit the continuation of the Vocational Courses (General Machinist) for the Std XI and XII in the fourth respondent school.

6. Aggrieved over the direction issued, the School Education Department has filed this Writ Appeal on the ground that the petitioner is not eligible to be regularised as per G.O.Ms.No.35 and he could not be accommodate in any of the posts.

7. The learned Special Government Pleader appearing for the appellants would submit that the petitioner was originally appointed on 05.08.2004 after some break, he was again appointed in different spells, on 12.05.2005 and 15.05.2006 by the Parent Teacher Association. The G.O.Ms.No. 35, School Education (VE) Department, dated 09.02.2007 was a policy decision taken by the Government as a one time measure. Even prior to the appointment of the writ petitioner, those teachers who were appointed even prior to the



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appointment of the petitioner have been accommodated in sanctioned post which are limited in number. Hence, the petitioner has not been appointed in the sanctioned post as per the G.O.Ms.No.35, School Education (VE) Department, dated 09.02.2007, hence, prays to set aside the order of the learned Single Judge.

8. Per contra, the learned counsel appearing for the writ petitioner would submit that the petitioner was appointed as Vocational Teacher even prior to the issuance of G.O.Ms.No.35, School Education (VE) Department, dated 09.02.2007 and therefore, he is entitled for appointment as per the Government Order issued by the Government. The learned Single Judge after considering the Government Order and after elaborately discussing about the implication of the Government Order directed the respondents to regularise the service of the petitioner, hence, there is no infirmity in the order of the learned Single Judge and prayed for confirming the order of the learned Single Judge.

9. We have heard the learned Special Government Pleader appearing for the appellants and the learned counsel appearing for the first respondent and perused the materials available on record.



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10. It is an admitted fact that the petitioner was originally appointed in the post of Vocational Teacher (General Machinist) on 05.08.2004. Subsequently, in the year 2007, based on the letter of the Director of School Education, the Government has considered the scope for the regularisation of the 201 qualified Vocational Teachers, who were appointed as a part time Vocational Teacher, appointed by the Parent Teacher Association and the salary being paid from the funds of the Parent Teacher Association across the State. In the Government Order, suggestion of the Director has been listed out in paragraph-3 and the relevant portion is extracted hereunder:-

"3.பெற்றோர் ஆசிரியர் கழக நிர்வாக நிதியில் இருந்து சம்பளம் பெற்று சுமார் 622 பகுதி நேர தொழிற்கல்வி ஆசிரியர்கள் அரசு அனுமதி பெறாத பணியிடங்களில் பணிபுரிந்து வருகின்றனர். இவர்கள் அனைவரும் தொழிற்கல்வி ஆசிரியர்களுக்கான முழுத்தகுதி பெற்றுள்ளனர். இவர்களில் 20.09.96க்கு முன் பகுதி நேர தொழிற்கல்வி ஆசிரியர்களாக நியமனம் பெற்று 20.09.96க்கு பிறகு முழுக்கல்வி தகுதி பெற்ற 44 பகுதி நேர தொழிற்கல்வி ஆசிரியர்களும் மற்றும் வேறு வேறு பள்ளிகளில் தொடர்ச்சியாக பணிபுரியும் 2பகுதி நேர தொழிற்கல்வி ஆசிரியர்களும் அடங்குவர்."

11. Based on the above suggestion, the Government has taken a



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policy decision to accommodate 201 temporary part time vocational teachers in the vacant sanctioned post from the qualified persons. However, persons who have not been appointed through the proper recruitment process and appointed only by the Parent Teacher Association given relaxation for the recruitment process as well as in the roster. The Chief Educational Officer directed to accommodate 201 teachers in the pay scale of Rs.4500-125-6000 on priority basis.

12. On perusal of the above Government Order, it shows that at the time of consideration of the case of the part time Vocational Teacher, there were 622 part time Vocational Teachers, who were working across various institutions and were also fully qualified prior to 20.09.1996. Apart from that, 44 part time Vocational Teachers under the service were joined after 20.09.1996.

13. It is the case of the appellants that since the petitioner was appointed only in the year 2004 and the sanctioned posts are only 201 and more than 622 Teachers eligible on the date of passing of the Government Order awaiting accommodation and those who are senior to the petitioner have been accommodated. Since G.O.Ms.No.35, School Education (VE) Department, dated



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WEB C 09.02.2007 has been passed based on the policy decision made by the Government as a one time measure and the same could not be extended to the petitioner herein.

14. We have noticed that in the year 2009, the School Education Department has issued two Government Orders directing the schools to wound up the course specifically unpopular courses or with 15 or less students should be wound up and G.O.Ms.No.9, School Education Department, dated 06.01.2009, it is also directed that no new Vocation Courses should be started from the academic year 2007-2008 and no new Vocational Instructor should be appointed either by the school management or PTA. Henceforth, a new Vocational Course can be opened only with the permission of the Government. This two Government Orders shows that further appointment of the Vocational Teacher have been stopped and the unpopular course like, the course of the petitioner being appointed is also one time measure.

15. We are of the view, at the time of issuance of Government Order, more than 622 eligible Teachers awaiting for relief from the Government as per



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G.O.Ms.No.35, dated 09.02.2007 and only 201 vacancies were filled up with the persons, who were appointed prior to 1996, is only an one time measure and others could not claim any relief based on this Government Order. There is no vested right in favour of the petitioner and he was only appointed in the year 2005 and directing the petitioner's case for regularisation of the service is not advisable, and G.O.Ms.No.35, School Education (VE) Department, dated 09.02.2007 is not applicable to the case of the petitioner.

16. Accordingly, the writ appeal is allowed and the order passed by the learned Single Judge, dated 02.12.2016 in W.P.(MD) No.7219 of 2009 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

[A.D.J.C., J.] [K.R.S., J.]

02.07.2024

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

- 1.The Secretary to Government,
School Education Department,
Fort St. George,
Chennai-600 009.
- 2.The Director of School Education,
College Road, Nungambakkam,
Chennai-600 006.
- 3.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

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AND
K.RAJASEKAR, J.

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