

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.19685 of 2014 and
M.P.No.1 of 2014

S.Ayyappan

... Petitioner

Vs.

1.Government 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, Chennai - 600 006.

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

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorarified Mandamus, calling for the entire records which culminated in issuing the Government Letter No.34906/C.C.1(1)/2013-1 dated 02.01.2014 on the file of the first respondent, quash the same and consequently direct the respondents to extend the benefits of G.O.(2D) No.7 School Education Department dated 23.02.2012 to the petitioner, fix the scale of pay of the petitioner in the cadre of Secondary Grade Scale of Pay of Vocational Instructor with effect from 01.12.1992 and confer all consequential benefits to him.

For Petitioner : Mr.S.Mani

For Respondent : Mr.M.S.Ramesh
Additional Government Pleader

O R D E R

The petitioner was initially appointed as Part Time Vocational Instructor on 01.06.1992. His appointment was approved by the third respondent on 26.03.1993 with effect from 02.08.1993. The petitioner was thereafter deputed to attend the condensed training

as per Government Order in G.O.Ms.No.834 Education, Science and Technology Department, dated 23.09.1994. The petitioner has undergone the training from 16.02.1995 to 26.05.1995.

2. The Government had issued an order in G.O.Ms.No.991 Education Department, dated 16.07.1990 and G.O.Ms.No.600 Education Department dated 20.09.1996 approving the appointment of part time Vocational Instructors with effect from 20.09.1996.

3. The Joint Director of School Education has passed an order dated 26.11.2002 approving the appointment of the petitioner notionally with effect from 20.09.1996 with monetary benefits from 10.06.2002. The petitioner was aggrieved on account of offering him secondary grade scale of pay from from 10.06.2002 instead of 06.06.1992. The petitioner having found that in similar circumstances, another employee by name Kannan was given benefits filed a writ petition before this Court. The said writ petition was disposed of with a direction to the first respondent to consider his representation. The first respondent considered the issue raised by the petitioner and ultimately rejected his claim. The said order is challenged in this writ petition.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader on behalf of the respondents.

5. The request made by the petitioner for giving him selection grade retrospectively was rejected primarily on the ground that the earlier appointment was only on part time basis. The petitioner has produced a copy of the Government Order in G.O.Ms.No.(2D) No.7, School Education Department, dated 23.02.2012 in support of his contention that under similar circumstances, the services of another employee was regularised without giving monetary benefits. The petitioner is also similarly situated. In fact the employee by name Kannan also attended training along with the petitioner and as such, the first respondent should treat the petitioner in the same way in which they have treated the said employee. The petitioner is therefore perfectly correct in his contention that he should have been given retrospective regularisation as in the case of Kannan.

6. In the result, the impugned order 02.01.2014 is set aside. The first respondent is directed to consider the claim made by the petitioner for retrospective regularisation in the light of the order in G.O.(2D) No.7 School Education Department dated 23.02.2012. It is made clear that no monetary benefits would be given to the petitioner and retrospective regularisation would be for the purpose of counting the total service for other purposes. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

7. The writ petition is allowed to the extent indicated above.
No costs. Connected miscellaneous petition is closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

Svki

To

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

+1cc to Mr.S.Mani, Advocate, S.R.No.10505
+1cc to the Government Pleader, S.R.No.10571

W.P.No.19685 of 2014

MG(CO)
CA(06/03/2015)

सत्यमेव जयते

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