

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2016

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No.344 of 2016 and C.M.P. No.5123 of 2016

- 1 The Principal Secretary to Government,
Education Department,
Secretariat,
Chennai 600 009.
 - 2 The Director of Elementary Education,
College Road,
Chennai 600 006.
 - 3 The District Elementary Education Officer,
Thirupur District,
Thirupur.
 - 4 The Assistant Educational Officer,
Thirupur North, Thirupur. ... Appellants
- Vs.
- A. Ramachandran (Night Watchman) ... Respondent

Writ Appeal preferred under Clause 15 of the Letters Patent against the order dated 24.07.2014 made in W.P. No.32583 of 2012.

Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent relating to the order of the 1st respondent in G.O. (3D) No. 57 dated 19.4.2012 to disburse the monetary benefits only from the date of issuance of G.O.i.e. from 19.4.2012 and quash the same in so far as it relates to the petitioner and issue consequential directions to the respondents to regularize the petitioners service and to fix time scale of pay to the petitioner and the monetary benefits as per the G.O.Ms.No.82/1994 Education Science and Technology Department with retrospective effect.

For appellants :Mr. K. Karthikeyan
Government Advocate (Education)

For respondent :Mr. P. Immanuel Prakasam

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P. Immanuel Prakasam, learned counsel, accepts notice for the respondent.

2 The instant intra-Court appeal arises from the order dated 24 July 2014 passed in W.P. No.32583 of 2012.

3 To avoid prolixity, the parties are referred to as per their arraignment in this intra-Court appeal.

4 The respondent filed the instant writ petition questioning the legality and validity of G.O. (3D) No.57, School Education Department dated 19 April 2012, whereby and whereunder, it was ordered that the respondent is eligible to get monetary benefits from the date of its issuance, viz., 19 April 2012 and further, for a direction to the appellants to regularise his services and fix his time scale of pay as per G.O. Ms.No.85, Education, Science and Technology Department dated 02 February 1994 (for short "G.O. Ms.No.85").

5 Indisputably, the respondent was appointed in the post of Sweeper on 25 February 1980 at Nanjappa Higher Secondary School as a contingent staff and subsequently, in the year 1988, he was transferred to Government Municipal Middle School, Mettupalayam, Tiruppur and presently, he is working as Night Watchman in the said school.

6 In the meantime, G.O. Ms.No.85 was issued, wherein, the Government decided as under:

"2. x x x x x x x It has, therefore, been decided that the contingent staff who had been appointed prior to 1.6.81 and have completed 10 years of continuous service, from the date of appointment should be brought into regular establishment and that the monetary benefit should be granted from the date of issue of this order."

7 Having been given the aforestated benefit which he was entitled to, the respondent preferred the instant writ petition, as aforestated.

8 The learned Single Judge, considering the case from all angles, held as under:

"4. x x x x x x x From the above extracted portion of the Government Order, it is very clear that the petitioner's service ought to have been regularised on completion of 10 years of service. But, that has not been done in this case. From the statement made in Contempt Petition No. 1907 of 2011, it has to be presumed that only in order to circumvent the contempt proceedings, it was stated that the order of this Court was complied with. But, on the face of it, the order of this Court has not been complied with. Since Contempt Petition No. 1907 of 2011 was closed; a second contempt petition is not maintainable as rightly observed by this Court in the order dated 16.04.2012 and the remedy is only to the Supreme Court and the petitioner is also a party to the statement made before the Court, based on which the order dated 20.04.2012 was passed, this Court is of the view, while allowing the writ petition, that the service of the petitioner should be regularised in terms of G.O.Ms. No. 85 Education Science and Technology Department dated 08.02.1994 and consequential benefits will have to follow. Necessary orders to that effect shall be passed by the Government within a period of four weeks from today. It is open to the Government to settle the consequential monetary benefits within a period of 3 months from the date of receipt of a copy of this order. No costs."

9 We have heard the learned counsel for the parties and perused the pleadings and documents appended thereto.

10 There is no cavil that the respondent is governed by G.O. Ms.No.85, whereunder, a decision was taken by the Government to bring all the contingent staff members into regular establishment and also grant monetary benefits to those contingent staff members who have completed ten years of continuous service on being appointed prior to 01 June 1981. In the case on hand, incontrovertibly, the respondent was appointed prior to 01 June 1981 and had also completed ten years of service. Thus, he is entitled to the benefit under G.O. Ms.No.85.

11 In such view of the matter, we do not find any error, infirmity or irregularity in the order rendered by the learned Single Judge, sought to be impugned in this intra-Court appeal.

Resultantly, this intra-Court appeal, being devoid of any merit, stands dismissed. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

- 1 The Principal Secretary to Government,
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- 4 The Assistant Educational Officer,
Thirupur North, Thirupur.

+1cc to Mr.P.Immanuel Prakasam, Advocate, S.R.No.19068
+1cc to the Government Pleader, S.R.No.19183

सत्यमेव जयते

W.A.No.344 of 2016

ak(CO)
srg(07/04/2016)

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