

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 23.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. No.11123 OF 2016

1 N.SenthilKumar
2 K.Porchelvan
3 M.Manogar
4 S.Guirija
5 S.Vidjea
6 M.Thaiyalnayaki
7 R.Bhoopathi
8 R.Savitha
9 Tamilarassi.R
10 O.Kamala
11 P.Arokia Mary Stella
12 R.Jasmine
13 R.Kavitha
14 M.Malathi
15 F.Jesima Santhalina Rouvier
16 P.Kalaiyarasipetitioners

Vs

1 Union of India
Rep. by the Government of
Puducherry Through
its Secretary Education Department
Puducherry
2 Director of School Education
Government of Puducherry Puducherry.
3 Central Administrative
Tribunal Chennai Bench
Rep. by its
Registrar Chennai-600 104. ... respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorari calling for the records relating to OA.No.716 of 2010 dated 04.02.2013 passed by the 3rd Respondent Tribunal and quash the same and to allow OA.No.716 of 2010.

For petitioners : Mr.Giridhar for M/s. Giridhar and
Sai Associates

For Respondents : Mr.Syed Musthafa,
Special Government Pleader (Puducherry),
for respondents 1 and 2

O R D E R

(made by K.K.SASIDHARAN, J.)

The petitioners were engaged as Trainee Graduate Teachers (Tamil) on contract process. Their services were regularized subsequently. The claim made by the petitioners to appoint them in the post of Trainee Trained Graduate Teachers (Tamil) on regular basis retrospectively and more particularly with effect from July 2008 was negatived by the Tribunal. Feeling aggrieved, the second respondent in O.A.No.716 of 2010 along with petitioners 2 to 16, who were not parties to the original application filed this Writ Petition.

2. When the Writ Petition was taken up for hearing, the learned Special Government Pleader (Services) Puducherry, submitted that nothing survives for adjudication in view of the subsequent events regularising the services of the petitioners. However, the learned counsel for the petitioners contended that the petitioners are entitled to regularization taking into account the notification issued for filling up the regular vacancies on 28 June 2008 and as such, the Writ Petition has to be taken up for consideration on merits. In view of the said submission, we have taken up the Writ Petition for adjudication.

3. The Government of Puducherry issued a notification on 28 June 2008, calling for applications for appointment to the post of Trainee Trained Graduate Teachers (Tamil). The petitioners submitted their applications pursuant to the said notification. Subsequently, the Government of Puducherry took a policy decision to appoint various categories of teachers on contract basis. The Government therefore issued an order in G.O.Ms.No.109 dated 9 October 2009, as amended by the Government Order in G.O.Ms.No.97 dated 20 August 2010.

4. The Government as per G.O.Ms.No.109 dated 9 October 2009, conveyed approval for payment of consolidated wages for engagement of various cadres of trainee teachers. Even though the petitioners submitted applications on the basis of the earlier notification, the fact remains that they were appointed only on the strength of the order in G.O.Ms.No.109 dated 9 October 2009 and the amended notification in G.O.Ms.No.97 dated 20 August 2009. The petitioners accepted the offer of engagement with eyes open. They have entered into a contract with the

Government to work as trainee teachers for a period of three years. The order, appointing the petitioners on the strength of the Government Order in G.O.Ms.No.109, was not under challenge at any point of time. It was only the Government Order in G.O.Ms.No.109 which was challenged before the Tribunal. The challenge was on the ground that after issuing notification for appointment on regular basis, it was not correct on the part of the Government to issue an order directing contractual appointment.

5. The Tribunal found that the petitioners in the original application accepted the offer of engagement and executed an agreement and as such, they have no legal right to claim regular appointment retrospectively.

6. There is no dispute that during the currency of the original application before the Tribunal, the Government issued an order in G.O.Ms.No.13 dated 21 February 2012 regularizing the services of 98 trainee Primary School Teachers and 33 trained graduate teachers (Tamil) including the petitioners. The regularization was made on 21 February 2012. There was no retrospective operation given to the order regularizing the services. The petitioners accepted the regularization order and continued their employment. In short, there is no challenge to the Government Order in G.O.Ms.No.13 dated 21 February 2012 regularizing the services prospectively.

7. The petitioners have no vested right to claim that on account of the notification issued by the Government on 28 June 2008 calling for applications for appointment to the post of Graduate Teacher (Tamil), which is now re-designated as Trained Graduate Teacher (Tamil) and their act of submitting application pursuant to the said notification, they are entitled for regularization with effect from the date of notification. There is absolutely no merit in the said contention. No right would accrue to the petitioners on account of their submission of application pursuant to the notification which was subsequently cancelled on the basis of a policy decision. It is trite that it even a selected candidate, whose name is found in the select list, has no vested right to claim appointment. In the subject case, the Government have protected the interest of the petitioners by regularizing their services. The petitioners accepted the orders appointing them on contract basis. It is therefore too late on the part of the petitioners to request the Government to regularize their services from the date of notification for recruitment, which was issued on 28 June 2008.

8. The Government considered the case of the petitioners sympathetically and regularized their services from 21 February 2012. The petitioners not being satisfied with the gesture shown by the Government, still wanted adjudication of their right on the basis of the notification dated 28 June 2008 that too

without challenging the order appointing them on contract basis. We are therefore of the view that there is absolutely no merit in the claim made by the 2nd petitioner in O.A.No.716 of 2010 and the other petitioners in the present Writ Petition. In short, the petitioners are not entitled to claim regularization with effect from 28 June 2008 on the strength of the notification issued for recruitment to the post of language Teacher (Tamil). The Writ Petition is misconceived and the same is liable to be dismissed.

9. In the upshot, we dismiss the Writ Petition with no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

tar
To

- 1 The Secretary
Education Department
Government of Puducherry
Puducherry
- 2 Director of School Education
Government of Puducherry Puducherry.
- 3 The Registrar,
Central Administrative Tribunal
Chennai Bench
Registrar Chennai-600 104.

+1cc to M/s. Giridhar & Sai Associates, Advocate, S.R.No.18377
+1cc to the Government Pleader, S.R.No.18718

PA(CO)
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