



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.08.2017

Pronounced on : 11.12.2017

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD)No.1447 of 2014
and
M.P.(MD) No.2 of 2014

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai - 600 009.
- 2.The Director of Teacher Education,
Research and Training,
DPI Compound, College Road,
Chennai - 600 006.
- 3.The Principal,
District Institute of Education and Training,
Palayampatti,
Viruidhunagar District. ... Appellants

vs.

- 1.S.Thiyagaraj
- 2.The Correspondent,
St. Stanislaus Teachers Training Institute,
Sattur - 626 203,
Virudhunagar District. ... Respondents

Prayer : Writ Appeal filed under clause 15 of the Letters Patent,
to set aside the order dated 28.02.2014 made in W.P.(MD) No.5308
of 2012 on the file of this Court.

Prayer in WP(MD). 5308/ 2012 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a WRIT OF
CERTIORARIFIED MANDAMUS or any other appropriate Writ or Direction
for the purpose of Writ calling for the records of the of the second
respondent in proceedings O.Mu.No.002241/E2/2010 dated 16.02.2010



and quash the same and consequently direct the respondents 1 and 2 to regularize the service of the petitioner as a permanent employee in the post of Watchman.

For Appellants

: Mr.T.S.Mohammed Mohideen,
Additional Government Pleader

For Respondent

: Mr.V.Panneerselvam for
Mr.K.K.Ramakrishnan

JUDGMENT

(Judgment of the Court was delivered by G.R.SWAMINATHAN, J.)

The State of Tamil Nadu has filed this intra Court appeal questioning the order dated 28.02.2014 made in W.P.(MD) No.5308 of 2012 filed by the first respondent herein.

2.The first respondent herein was appointed as a Watchman in the second respondent Teachers' Training Institute on 11.03.1982 as a contingent employee. He possessed the minimum prescribed educational qualification. His appointment as a Watchman was also approved by the District Educational Officer, Virudhunagar. The second respondent is an aided Institution. He worked in that capacity for more than 29 years. The Management sent proposals for absorbing him as a permanent employee. But, by order dated 16.02.2010, the request was rejected. Questioning the same, the first respondent herein filed the said writ petition and sought regularisation of his service as a permanent employee in the post of Watchman. The said writ petition was allowed by the learned Single Judge on the ground that the facts of the present writ petition are similar to the one that obtained in W.P.(MD) No.4823 of 2000. This Court had allowed the said W.P.(MD) No.4823 of 2000 by order dated 23.09.2008.

3.Reference was made to earlier orders passed by the Government such as G.O.Ms.No.292 dated 31.03.1982, G.O.Ms.No.52 dated 14.01.1977 and G.O.Ms.No.62 Employment Service department dated 20.03.1987. Reference was made to the communication dated 19.04.1988, whereby the Managements of private Teachers Training Schools were called upon to apply for regularisation of their contingent employees. It was assured that appropriate action would be taken if such applications were made. There was yet another communication dated 30.10.1991, whereby the contingent employees in aided school, who have completed 5 years and more were brought into regular establishment. However, there was a caveat to the effect that employment on contingent basis should not be made without the approval of the authorities. In this case, the appointment of the writ petitioner as a contingent employee was approved by the authority concerned. Therefore the learned Single Judge finding similarity between the facts of both the cases granted relief in favour of the first respondent herein.



4.The stand taken by the learned Additional Government Pleader that the order dated 23.09.2008 made in W.P.(MD) No.4823 of 2000 could not be applied for the present case in view of the abolition of the category of contingent staff way back in 1977 cannot be accepted. This is because the appointment of the writ petitioner in this case was specifically approved.

5.We are of the view that the learned Single Judge was right in following the earlier decision rendered in W.P.(MD) No.4823 of 2000. We find no merit in this writ appeal.

6.This writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai - 600 009.

2.The Director of Teacher Education,
Research and Training,
DPI Compound, College Road,
Chennai - 600 006.

3.The Principal,
District Institute of Education and Training,
Palayampatti,
Viruidhunagar District.

+1cc to M/S.K.K.Ramakrishnan, Advocate SR.No. 92036
+1cc to Special Government Pleader, SR.No. 92653

Judgment made in
W.A.(MD)No.1447 of 2014
and
M.P.(MD) No.2 of 2014
11.12.2017

Arul