



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2017

CORAM :

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

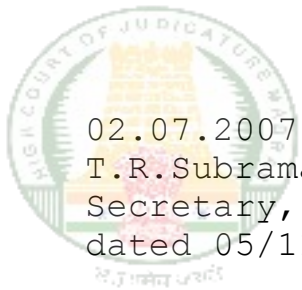
W.A.(MD)No.511 of 2016
and
C.M.P.(MD) No.3580 of 2016

- 1.The State of Tamilnadu
Rep. By its Secretary to Government,
Education Department,
Chennai - 9.
 - 2.The Director of Elementary Education,
College Road,
Chennai - 6.
 - 3.The District Elementary Educational Officer,
Trichy District. ... Appellants/Respondents 1 to 3
- vs.
- 1.B.Sathya Narayanan ... 1st Respondent/Writ Petitioner
 - 2.The Secretary,
Saraswathi Vilas Elementary School,
Varadharaja Perumal Koil Street,
Trichy - 620 008. ... 2nd Respondent/4th Respondent

Prayer : Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order dated 30.04.2014 in W.P.(MD) No.2815 of 2011 on the file of this Court.

Prayer in WP(MD). 2815/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue orders, directions or writ order in the nature of appropriate writ in particular a Writ of Certiorari/Mandamus calling for the entire records connected with impugned order of the 3rd respondent in Na.Ka.No.8094/A3/2010 dated 12.02.2011 and quash the same and directing the respondents to approve the appointment of the petitioner as Secondary Grade Teacher with effect from 26.06.1998 in the respondent school with all consequential service benefits, extending the benefit of the G.O.Ms.No.150 dated



02.07.2007 and in the light of the Judgment passed in the case of T.R.Subramanian Vs The State of Tamil Nadu, Represented by the Secretary, Education Department & Others in W.P.No.22786/2004 dated 05/11/2008.

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For Appellants : Mr.T.S.Md.Mohideen, AGP
For Respondents : Mr.K.K.Kannan for R1

J U D G M E N T

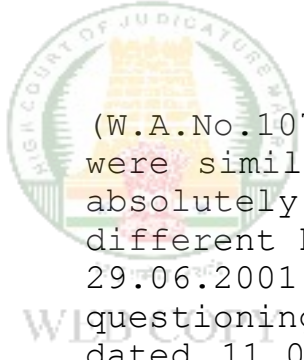
(Judgment of the Court was made by G.R.SWAMINATHAN, J.)

The State of Tamil Nadu is on appeal, questioning the order dated 30.04.2014 made in W.P.(MD) No.2815 of 2011 filed by the first respondent herein.

2.A vacancy arose on 01.06.1997 in the post of Secondary Grade Teacher in Saraswathi Vilas Elementary School, Trichy, the second respondent herein. The writ petitioner had B.A., B.Ed., qualification and he was appointed as Secondary Grade Teacher on 26.06.1998. However, the appointment was not approved on the ground that G.O.Ms.No.559, Educational Department, dated 11.07.1995 had been violated. The said G.O.Ms.No.559, Educational Department, dated 11.07.1995 proscribed appointment of candidates with higher qualification in Secondary Grade Teacher post. The validity of the said Government Order was sustained by the High Court. The batch of writ petitions were dismissed and the batch of writ appeals also met the same fate. However, in order to protect the services of teachers, who were appointed between the date of Government Order and 19.05.1998, G.O.Ms.No.155, School Education (D2) Department, dated 03.10.2002 was issued. Later, another Government Order viz., G.O.Ms.No.150, School Education Department, dated 02.07.2007 was issued extending the benefit of G.O.Ms.No.155 dated 03.10.2002. Thus, appointment of 22 teachers, who were appointed upto 29.06.2001 came to be protected. Unfortunately, the name of the writ petitioner, first respondent herein was omitted. The District Elementary Educational officer, Trichy District declined to grant approval for the writ petitioner's appointment and passed an order dated 12.02.2001 to that effect. For quashing the same, W.P.(MD) No.2815 of 2011 came to be filed and the same was allowed on 30.04.2014. Hence, this intra Court appeal.

3.Heard the learned Additional Government Pleader for the appellants and the learned counsel appearing for the respondents.

4.It is seen from a reading of the order of the learned Single Judge that the issue projected in this case is already covered in the decision reported in 2009 WLR 121 - T.R.Subramanian Vs. State of Tamil Nadu and the State of Tamil Nadu Vs. R.Rengasamy



(W.A.No.1073 of 2011 dated 06.11.2012), where, the persons, who were similarly placed were given relief by this Court. There is absolutely no reason to treat the first respondent herein on a different basis. The first respondent herein was appointed before 29.06.2001 i.e. prior to dismissal of the batch of writ appeals questioning the validity of G.O.Ms.No.559, Educational Department, dated 11.07.1995. There was a sanctioned regular vacancy. The issue of over qualification can no longer be put against the first respondent in view of the Government Orders issued by the appellant and also the judgment of this Court.

5.Actually, the writ petitioner's name ought to have been included in the earlier G.O.Ms.No.150 dated 02.07.2007, when 22 similarly placed teachers were granted the benefit of G.O.Ms.No.155 dated 03.10.2002. It would be unfair to deny the said benefit to the first respondent alone. The learned Judge has simply applied the principles of equality and allowed the writ petition. We see no reason to differ with the reasons assigned by the learned Single Judge for granting relief to the first respondent. There is no merit in this writ Appeal. It stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Govt,
The State of Tamilnadu
Education Department,
Chennai - 9.

2.The Director of Elementary Education,
College Road,
Chennai - 6.

3.The District Elementary Educational Officer,
Trichy District.

+1cc to M/S.K.K.Kannan, Advocate SR.No. 70103
+1cc to Special Government Pleader, SR.No. 70599

W.A. (MD) No.511 of 2016
02.08.2017