



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.04.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

AND

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A.(MD)No.1233 of 2013

& M.P.(MD)No.1 of 2013

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Education, Science and Technology,
H.S.II Department,
Fort St. George,
Madras - 9.

2.The Director of School Education,
College Road,
Madras - 6.

3.The Chief Educational Officer,
Kanyakumari District,
Nagercoil.

4.The Headmaster,
Government Higher Secondary School,
Kottaram Post - 629 703,
Kanyakumari District.

... Appellants/Respondents

Vs.

S.Velayuthaperumal

... Respondent/ Writ Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, against the order dated 01.08.2013, made in W.P.(MD) No.12175 of 2009.

Prayer in WP(MD)No. 12175/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents herein to regularize the services of the petitioner as Vocational Instructor with effect from the date of first appointment and fix the time scale of pay of the petitioner on par with the similarly placed persons regularized in G.O.Ms.NO. 35 School Education (VE) department dated 09/02/2009 with effect from initial dated of appointment besides pay all the arrears within a short date that may be fixed



by this Honourable Court with all consequential service benefits such as due placement in the seniority on the basis of length of service and all other allowances attached to the posts.

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For Appellants

: Mr.V.Muruganantham

Additional Government Pleader

For Respondent

: Mr.M.Sarvanakumar

JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.V.Muruganantham, learned Additional Government Pleader appearing for the appellants and Mr.M.Saravanakumar, learned counsel appearing for the respondent.

2.This Writ Appeal by the Government and four others is directed against the order dated 01.08.2013 made in W.P.(MD) No.12175 of 2009.

3.The respondent/writ petitioner sought for issuance of a Writ of Mandamus, to direct the appellants to regularize his services as Vocational Instructor with effect from the date of first appointment and to fix the time scale of pay on par with the similarly placed persons regularized in G.O.Ms.No.35, School Education (VE) Department, dated 09.02.2007 with effect from the initial date of appointment besides pay all the arrears within a short date that may be fixed by this Court with all consequential service benefits such as due placement in the seniority on the basis of length of service and all other allowances attached to the posts.

4.The abovesaid Writ Petition was allowed by the impugned order, dated 01.08.2013, in which, the Court took into consideration the decision of the Division Bench of this Court passed in W.A.(MD)No.265 of 2011, which was dismissed by judgment, dated 28.02.2011. The main ground on which, this appeal has been filed is by contending that the training, which was directed to be given in the Government Order is only for 213 persons and others cannot claim it as a matter of right.

5.For the very same issue, similarly placed persons had filed Writ Petitions before the Principal Bench of this Court in W.P.Nos.6821 and 6822 of 2011, which were allowed, by common order dated 31.03.2011. This order was challenged by the Government in W.A.Nos.158 and 159 of 2012 and the appeals were dismissed by the Division Bench, by judgment dated 07.02.2012. The operative

<https://hcservices.com.in/https://hcservices.com.in/> judgment reads as follows:

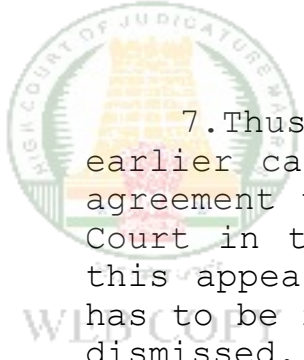
"3.On the ground that some of the unqualified Vocational Instructors had also sought for regularisation, the Government



issued G.O.Ms.No.358, School Education Department, dated 18.8.1997, directing to impart a short term training for those unqualified teachers and thereafter regularise them. There is no controversy that in terms of the G.O., large number of unqualified Vocational Instructors were also sent for training and were regularised after a prolonged litigation upto the Apex Court. The respondents in these writ appeals did not approach the Court on earlier occasions seeking regularisation. Nevertheless, having noticed that similarly placed persons were regularised after they were sent for training in terms of the G.O., the respondents/writ petitioners approached the Court by filing writ petitions seeking regularisation of their service. Having considered that similarly placed persons were sent for training and later they were regularised, the learned Judge directed to extend the same benefit to the writ petitioners on the ground that such benefit should not be denied merely because they did not approach the Court on time.

4. Heard Mr.E.Sampathkumar, learned Special Govt. Pleader [Education] for the petitioners and Mr.V.Bharathidasan, learned counsel taking notice on behalf of the respondents. In our opinion, of course, the Court should extend the benefit to the persons who are vigilant and approach the Court on time, for such reliefs. But the fact remains that a large number of Vocational Instructors were appointed and when the question of regularisation came up for consideration before the Government earlier, the Government, as a one time measure, regularised all those who possessed the minimum educational qualification. Later, realizing the difficulties experienced by the other Vocational Instructors, who are not qualified, again, the Government, as a one time measure, extended the benefit of regularisation, but imposing a condition that those persons should undergo a short term training. This G.O. is applicable to all those who are working as Vocational Instructors without qualification. In all fairness, when a list was forwarded for training, the respondents' name should have also been sponsored. But, for some reason or other, the names of the respondents have not been sponsored for training. But the delay cannot be given that much importance, thereby affecting the right of the respondents. So long as the G.O. grants certain benefits to unqualified Vocational Instructors, we find no infirmity in the order passed by the learned single Judge applying the said G.O. after rejecting the stand of the Government that the respondents had not approached the Court on an earlier point of time. Hence, we find no merit to entertain these writ appeals. Accordingly, the writ appeals are dismissed. No costs. Connected miscellaneous petitions are closed."

6. The Special Leave Petitions filed by the Government as against the said judgment in S.L.P.(Civil)Nos.11338 and 11339 of 2014 are dismissed on 01.08.2014. Subsequently, the Government Order has been issued in G.O.(2D)No.50, School Education Department, Dated 27.08.2014, implementing the judgment.



7. Thus, we find that the Division Bench of this Court in the earlier case, has dealt with the same issue and we are in entire agreement with the reasons assigned by the Division Bench of this Court in the said judgment and therefore, there are no merits in this appeal and following the earlier judgments, this Writ Appeal has to be necessarily dismissed. Accordingly, this Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

ASSISTANT REGISTRAR

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

1. The Secretary to Government of Tamil Nadu,
Education, Science and Technology,
H.S.II Department,
Fort St. George, Madras - 9.
 2. The Director of School Education,
College Road, Madras - 6.
 3. The Chief Educational Officer,
Kanyakumari District Nagercoil.
 4. The Headmaster,
Government Higher Secondary School,
Kottaram Post - 629 703, Kanyakumari District.
- +1 CC TO MR.M.SARAVANAKUMAR,ADVOCATE,SR NO.54294
- +1 CC TO SPECIAL GOVERNMENT PLEADER SR NO.54736

smn2

MAS/SV-MMS/SAR3:11.05.2017:4P-7C

JUDGMENT MADE IN
W.A. (MD) No.1233 of 2013
26.04.2017