

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.A.No.1589 of 2018

and

C.M.P.No.12754 of 2018

Government of Tamil Nadu
rep.by its Secretary,
Youth Welfare and Sports Development (S1) Department,
Chennai-9. ... Appellant

-vs-

1.P.Shankar

2.Sports Development Authority of Tamil Nadu,
rep.by its Member Secretary,
Chennai-600 084. ... Respondents

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.25609 of 2015 dated 18.10.2016.

Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus Directing the respondents to regularize the services of the petitioner from the date of initial appointment with all attendant benefits

For Appellant :: Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

JUDGMENT
(Delivered by HULUVADI G.RAMESH, J.)

The appellant was appointed as Taekwondo Coach on 02.06.2010 and though the initial period of contract was for three years, the same was being extended from time to time. The second respondent issued R.C.No.14304/AO-1-2006 dated 17.10.2007 stating that it has proposed to appoint existing contract Coaches on regular basis, if they are recommended by Employment Exchange and satisfy all other criteria pertaining to regular appointment and the District Sports Offices were directed to get an undertaking from the Coaches. Accordingly, the appellant executed an undertaking stating that he is willing to work as regular appointment Taekwondo Coach in SDAT. But instead of regularizing his service, he is being continued only as contract Coach and the respondents have appointed new Coaches on permanent basis without regularizing the contract Coaches, who have been working from 2004 onwards. While so, the first respondent had issued G.O.Ms.No.42 dated 04.07.2012 stating that 139 posts of Coaches have been sanctioned, in which 129 have been filled up with 51 permanent Coaches and 78 contract Coaches and 10 posts are to be filled up and it was also decided to sanction 80 additional posts on contract basis. As on December 2012, 20 regular posts were available and instead of regularizing the services of the appellant, the respondents sought to recruit from outside. Therefore, the appellant and 13 other similarly placed persons filed writ petitions seeking regularizing of their service from the date of appointment with all attendant benefits and also for interim injunction restraining the second respondent from terminating their services. In the said writ petitions, the second respondent had filed a counter affidavit stating that there is no proposal to terminate the petitioners therein from service. During the pendency of those writ petitions, the second respondent informed the appellant herein and others that they would regularize their services, if the writ petitions are withdrawn. In view of the assurance given by the respondents, they withdrew the writ petitions with liberty to file fresh writ petitions, if necessary. Hoping that the respondents would abide by the proceedings in R.C.No.14304/AO-1-2006 dated 17.10.2007 and assurances, the appellant had submitted the application. After coming to know that the respondents would not act on the proceedings dated 17.10.2007, but proceed ahead with the recruitment process, the appellant filed a writ petition before this Court in W.P.No.25609 of 2015 to regularize his service from the date of initial appointment with all attendant benefits.

2. In the light of the order dated 29.07.2015 made in W.P.No.23081 of 2015 in respect of similarly situated persons,

the learned single Judge disposed of the writ petition by directing the respondents to consider and pass appropriate orders for appointment of the appellant to the post of Coach (Taekwondo) within a period of four weeks. A direction was also given to the respondents to keep one post of Coach (Taekwondo) vacant in the second respondent authority, till such time.

3.Challenging the order made in the writ petition, the present appeal has been filed by the appellant / Department.

4.The learned Special Government Pleader appearing for the appellant has submitted that the learned single Judge has erred in relying upon the decision rendered in W.P.No.23081 of 2015, since the facts involved in that case are not identical to the facts involved in the present case.

5.Heard the learned Special Government Pleader appearing for the appellant and perused the materials available on record.

6.It appears that the learned single Judge has passed the impugned order only to consider and pass appropriate orders for appointment of the appellant to the post of Coach (Taekwondo). In the matter of recruitment, Mandamus would not lie. However, the direction issued by the learned single Judge is only to consider the case of the appellant for appointment to the post of Coach (Taekwondo). It is a matter of discretion of the Government to consider and pass appropriate orders. It is not necessary that the case of the appellant has to be considered positively, without there being requisite qualification and other stipulations. We do not find any merit in this writ appeal and accordingly the same is dismissed. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

KM

To

1.The Secretary to Government,
Government of Tamil Nadu
Youth Welfare and Sports Development (S1) Department,
Chennai-9.

2.The Member Secretary,
Sports Development Authority of Tamil Nadu,
Chennai-600 084.

+1cc to Mr.I. Sathish, Advocate SR.No.54816

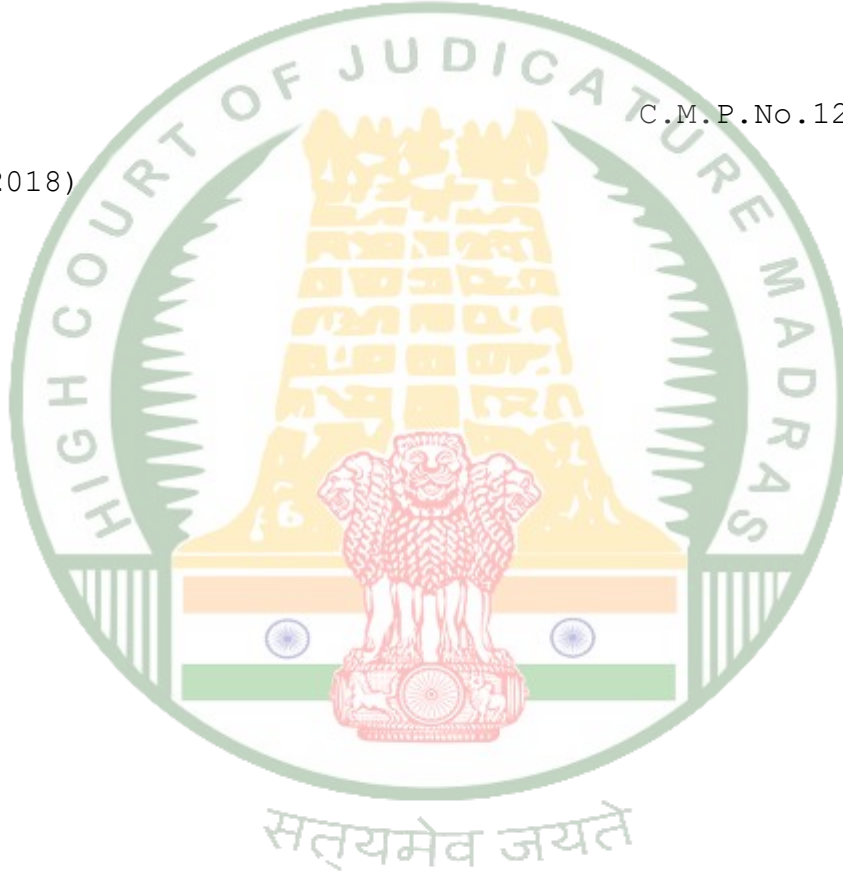
+1cc to Government Pleader SR.No.55026

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and

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GM(04/09/2018)



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