

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.7713 of 2007
and M.P.No.1 of 2007

S.Suresh Balaji

.. Petitioner

Vs.

1.State of Tamilnadu Rep. By its
Secretary to Government
School Education Department,
Fort St. George, Chennai 9.

2.The Director of School Education,
College Road,
Chennai 6.

3.The Joint Director of School
Education (Higher Secondary)
College Road, Chennai 6.

4.The Chief Educational Officer,
Thiruvellore.

5.The District Educational Officer,
Thiruvellore.

6.The Headmaster,
Government Higher Secondary School,
Maddur, Tiruttani Taluk,
Thiruvellore District 631 206.

7.Thiru S.Babu,
Vocational Teacher,
Dr.Radhakrishnan Government Boys Higher
Secondadry School,
Tiruttani 631 209.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records relating to the selection list dated 13.02.2007, issued by the 2nd respondent, quash the same in so far as it fails to follow the seniority in regularizing the Vocational Teachers and consequently for a direction, directing the 2nd respondent to regularize the service of the petitioner in accordance with G.O.35 dated 09.02.2007 based on seniority.

For Petitioner : Mr.R.Saravanakumar

For R1 to R6 : Mr.P.Raja,
Government Advocate

For R7 : Mr.K.Sannjay

ORDER

The petitioner is a Diploma holder in Electronics and Communication Engineering [D.E.C.E]. He was appointed as Vocational Teacher in the 6th respondent School on 01.07.1998. The petitioner has been handling the subjects viz., Radio and TV Maintenance and Repairs - Vocational Theory and Practical I and II for the vocational stream of Higher Secondary course. The petitioner has been handling 28 periods per week as prescribed for all category of Teachers and was appointed in the 6th respondent school after the same being upgraded to Higher Secondary School. The petitioner was appointed in a sanctioned post permanently and is working without any break in service ever since his initial appointment. The Vocational Teachers were paid consolidated pay and they were brought in time scale of pay in phased manner. The petitioner's name was forwarded by the 6th respondent to the 4th respondent, who in turn forwarded the name of the petitioner to the 2nd respondent for bringing the petitioner on time scale of pay. The petitioner is possessing necessary qualification and as such he was entitled to be brought on time scale of pay. The petitioner was in Serial No.60 in the list containing 213 Vocational Teachers. By G.O.Ms.No.35, School Education Department dated 09.02.2007, the 1st respondent issued orders for bringing only 201 Vocational Teachers on time scale of pay and petitioner's name was not included in the list dated 13.02.2007. According to the petitioner, many of his juniors were included in the list while his name was not included. The petitioner is working as Vocational Teacher from 01.07.1998 in the sanctioned post permanently and his non-inclusion in the impugned list dated 13.02.2007 issued pursuant to G.O.Ms.No.35, School Education Department dated 09.02.2007 is clearly violation of Article 14 of the Constitution of India and is liable to be quashed. The petitioner fulfilled the eligible

criteria on par with other Teachers who were regularized and hence, has come out with the present Writ Petition seeking regularization.

2.The petitioner filed additional affidavit dated 26.09.2018 and submitted that he came to know the reason for non-selection of the petitioner through an information received under Right to Information Act vide letter dated 27.08.2007. The 2nd respondent sent a reply dated 10.09.2007 stating that in G.O.Ms.No.6 School Education (VE) Department dated 04.01.2000, for the vocational group "Radio and TV Maintenance and Repairs", the qualification prescribed was only Diploma in Electronics, whereas the petitioner was qualified in Diploma in Electronics and Communication Engineering and hence, the petitioner's name was not included. The petitioner further stated that he approached the 2nd respondent and informed that the Diploma in Electronics and Diploma in Electronics and Communication Engineering are one and the same. The 1st respondent by G.O.Ms.No.172 School Education (VE) Department dated 18.08.2008 issued clarification stating that Diploma in Electronics and Communication Engineering shall be substituted as the qualification in G.O.Ms.No.6 School Education (VE) Department dated 04.01.2000 for "Radio and TV Maintenance and Repairs" group and also declared that the amendment shall have retrospective effect from 23rd September, 1994. The petitioner is fully qualified and he is working in the permanent vacancy without any break in service and prayed to regularize him from the date of appointment in par with the similarly placed Teachers in G.O.Ms.No.35, School Education Department dated 09.02.2007.

3.The 6th respondent filed counter affidavit on his behalf and on behalf of the respondents 1 to 5. In the counter affidavit, the respondents have stated that the petitioner was appointed on 01.07.1998 as part-time Vocational Instructor for Electrical Domestic Appliances group after a resolution taken by the Parent Teacher Association. The petitioner did not possess the educational qualification of Diploma in Electrical Engineering and one year practical experience as prescribed in G.O.Ms.No.6, School Education Department dated 04.01.2000. The Electrical and Domestic Appliances group was converted into Radio and Television (Maintenance and Repairs) group during the academic year 2004-05 vide Dis.No.89317/W9/205 dated 18.10.2005 of the 2nd respondent. The 4th respondent by the letter vide Rc.No.2245/A6/2007 dated 25.08.2011, have stated that Vocational Instructors who were appointed between 20.09.1999 and 01.06.2000 with requisite qualification alone were regularized by G.O.Ms.No.35, School Education Department dated 09.02.2007. The petitioner was appointed as Vocational Teacher for Electrical and Domestic Appliances group and he did not possess requisite educational qualification on the date of appointment. He was

appointed as Vocational Instructor in Radio & TV (Maintenance and Repairs) group was only in the academic year 2004-05 and he is not eligible to be regularized and prayed for dismissal of the Writ Petition.

4. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents 1 to 5 and perused the materials available on record.

5. From the averments in the affidavit, additional affidavit and counter affidavit, it is seen that the petitioner was appointed as Vocational Instructor on 01.07.1998. It is the contention of the respondents that the petitioner was appointed as Vocational Instructor for Electrical Domestic Appliances group on 01.07.1998 and he did not possess requisite educational qualification and practical experience for the said group. To substantiate this contention, the respondents relied on G.O. (Ms).No.6, School Education Department, dated 04.01.2000. The educational qualification for the post of Vocational Teacher for Electrical Domestic Appliances group is Diploma in Electrical Engineering with one year practical experience. By this Government Order, the said G.O has deemed to be in force with effect from 23rd September, 1994. Subsequently, the post was converted into Radio and Television (Maintenance and Repairs) group during the academic year 2004-05. The petitioner is possessing Diploma in Electrical and Communication Engineering [D.E.C.E] and petitioner has full qualification to be appointed as Vocational Teacher for Radio and Television (Maintenance and Repairs). Hence, the 6th respondent forwarded the name of the petitioner to be regularized as per the decision taken by the Government to regularize 213 Vocational Teachers appointed by Parent Teacher Association of the concerned School. The petitioner's name was in serial No.60 in the list consisting of 201 Vocational Teachers. The respondents 1 and 2 without giving any reasons did not include the petitioner's name in the selected list containing 201 Vocational Teachers dated 13.02.2007. In the counter affidavit, the respondents have referred to a letter of the 4th respondent dated 25.08.2011 wherein it has been stated that the Vocational Instructors appointed between 20.09.1996 to 01.06.2000 with requisite qualification were regularized as per G.O.Ms.No.35, School Education Department dated 09.02.2007. A reading of G.O.Ms.No.35, School Education Department dated 09.02.2007 shows that for 201 fully qualified Vocational Teachers, the 1st respondent has directed the 2nd respondent to appoint 201 Vocational Teachers on priority basis. The Government Order does not state that persons appointed between 20.09.1996 and 01.06.2000 alone were regularized by G.O.Ms.No.35, School Education Department dated 09.02.2007. The respondents 1 to 6

have not given any reason for not including the petitioner's name in the impugned list for regularization. Even as per the averments in the counter affidavit, it has been admitted by the respondents that the petitioner was fully qualified to the post of Vocational Teacher. The persons included in the selection list containing 201 Vocational Teachers is dated 13.02.2007 and 213 Teachers are not made as parties in the Writ Petition, except the 7th respondent and therefore, the said list is not quashed, except directing the respondents to bring the petitioner into time scale of pay based on G.O.Ms.No.35 School Education Department dated 09.02.2007. The petitioner is entitled to all monetary benefits as per G.O.Ms.No.35 School Education Department dated 09.02.2007.

6.In the result, this Writ Petition is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government
State of Tamil Nadu,
School Education Department,
Fort St. George, Chennai 9.
- 2.The Director of School Education,
College Road,
Chennai 6.
- 3.The Joint Director of School Education
(Higher Secondary)
College Road, Chennai 6.
- 4.The Chief Educational Officer,
Thiruvellore.
- 5.The District Educational Officer,
Thiruvellore.

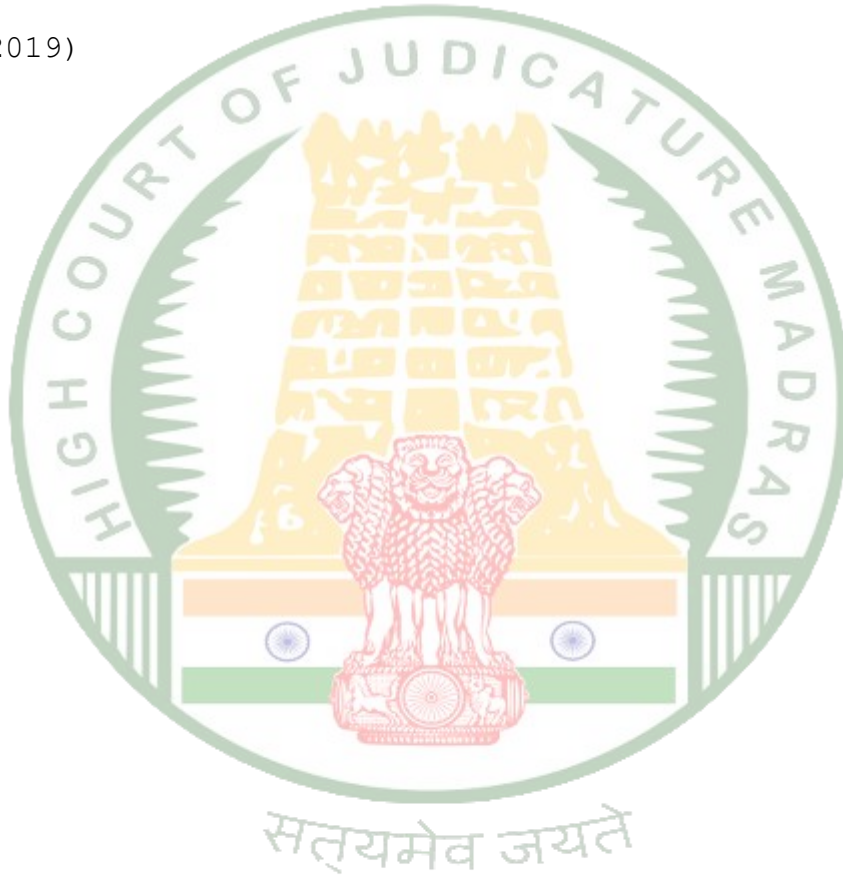
6.The Headmaster,
Government Higher Secondary School,
Maddur, Tiruttani Taluk,
Thiruvellore District 631 206.

+1cc to Mr.E.Veda Bagath Singh, Advocate, S.R.No.60361

+1cc to the Government Pleader, S.R.No.60219

W.P.No.7713 of 2007

BR(CO)
SP(29/08/2019)



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