

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.03.2019

CORAM
THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.27254 of 2009 and M.P. No.1 of 2009

S.Kannan

.. Petitioner

-vs-

1.The Government of Tamil Nadu,
rep. by its Secretary to Government,
Department of School Education,
Fort St. George, Chennai-9.

2.The Director of School Education,
Chennai-6.

3.The Chief Educational Officer,
Ramanathapuram District.

4.The Headmaster,
R.S. Government Higher Secondary School,
Paramakudi,
Ramanathapuram District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified mandamus calling for the records relating to the order of the fourth respondent dated 02.11.2009 made in Na.Ka.No.140/9, quash the same and subsequently, for a direction directing the fourth respondent to reinstate the petitioner into the services of the fourth respondent School with effect from 01.06.2009.

For Petitioner :: Mr.E.Martin Jayakumar

For Respondents :: Mr.K.Karthikeyan,
Government Advocate

ORDER

The writ petition has been filed challenging the correctness of the impugned order dated 02.11.2009 made in Na.Ka.No.140/9 passed by the fourth respondent and seeking a direction to the fourth respondent to reinstate the petitioner into the services of the fourth respondent School with effect from 01.06.2009.

2.Learned counsel appearing for the petitioner would submit that the petitioner was appointed as Single Part Time Vocational Instructor on 12.10.1998 in the sanctioned post caused due to the retirement of one Mr.Sivasubramanian and was working till 1998. According to the learned counsel appearing for the petitioner, the first respondent, in order to regularise the services of the part time Vocational Teachers working on consolidated pay, called for a list of teachers working in the respective schools and the fourth respondent recommended the name of the petitioner for being regularised under time scale of pay. In this regard, the Government issued G.O. Ms. No.35 School Education Department dated 09.02.2007 sought to regularise the services of 201 vocational teachers working in various schools in the State of Tamil Nadu including the petitioner. While so, when the petitioner was attending the school regularly, the fourth respondent vide the impugned order dated 02.11.2009, terminated the services of the petitioner citing that the Parents Teachers Association had passed a resolution in this regard. According to the learned counsel for the petitioner, when the petitioner has been working as Single Part Time Vocational Instructor, he is entitled to the benefit of the G.O. and therefore, the impugned order terminating the petitioner from services is liable to be quashed.

3.Learned counsel appearing for the petitioner would further submit that in a similar circumstance, this Court by order dated 07.04.2017 in W.P. No.18452 of 2012, disposed of the writ petition by directing the respondents therein to apply G.O. Ms. Nos.35 and 69 of the first respondent therein dated 09.02.2007 to the claim made by the writ petitioner and also to take note of the proceedings of the fourth respondent therein. Aggrieved by the said order, when the respondents therein filed a Writ Appeal in W.A. No.2445 of 2018, the Division Bench of this Court by order dated 23.01.2019 dismissed the Appeal confirming the order passed in W.P. No.18452 of 2012, approving the appointment of the writ petitioner as a Vocational Instructor and therefore, the learned counsel appearing for the petitioner prays for a similar order.

4.Placing on record the above order, learned Government Advocate appearing for the respondents also acceded to pass the same order. It is relevant to extract paragraphs 21 to 23 as under:

21.The first respondent was therefore fully qualified and his appointment as a Vocational Instructor has to be approved. As stated earlier, the first respondent cannot be made to suffer for the inaction part of the School. His juniors have been regularised, he has been regularly attending the school and imparting education. Therefore, the first respondent is eligible to get time

scale of pay from 09.02.2007, that is from the date of issuance of G.O. Ms. No.35.

22.For the reasons stated supra, writ appeal therefore fails and the same is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

23.The directions given by the learned Single Judge would be complied, within a period of six weeks from the date of receipt of a copy of this judgment.

5.It is seen that the petitioner was not given the benefit of G.O. Ms. No.35 School Education Department dated 09.02.2007 though his name has been included in the list of 201 vocational teachers working in various Schools in the State of Tamil Nadu. Although the Government started issuing separate orders depending upon the qualification and experience possessed by the concerned Vocational Teachers appointed on various dates at Government Aided and Government Schools, as the petitioner was working continuously from 2002 in the fourth respondent School, it is not known why the respondents have not come forward to regularise the service of the petitioner reinstating him into service, by applying the above said G.O. Therefore, in the light of the judgment passed by the Division Bench, the respondents are directed to regularise the service of the petitioner from the date of appointment along with consequential benefits, applying the G.O. Ms. No.35 dated 09.02.2007, within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, the impugned order is quashed and the writ petition stands allowed. Consequently, connected M.P. is closed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vga

To

1.State of Tamil Nadu,
rep. by its Secretary to Government,
School Education Department,
Secretariat,
Chennai-9.

2.Director of School Education,
Chennai-6.

3.The Chief Educational Officer
Ramanathapuram.

+lcc to Mr.E.Martin Jayakumar, Advocate, S.R.No.23078
+lcc to the Government Pleader, S.R.No.22584

W.P. No.27254 of 2009 and
M.P. No.1 of 2009

SJ(CO)

RRS (12/04/2019)



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