

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2019

CORAM

THE HONOURABLE Mr. JUSTICE M. DHANDAPANI

W.P.No.17887 of 2019

R.Sureshbabu

... Petitioner

vs

- 1 The State of Tamil Nadu
rep. by its Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.
- 2 The Director of School Education,
DPI compound, Teynampet,
Chennai - 600 006.
- 3 The Chief Educational Officer,
Krishnagiri District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 27.03.2019 and 04.05.2019 regarding regularising the services of the petitioner in the post of Music Teacher as per GO Ms. No.151, Social Welfare Department, dated 16.10.2018.

For Petitioner : Mr.S. Selvathirumurugan
For Respondents : Ms.P. Kavitha,
Government Advocate

ORDER

This petition has been filed seeking for a direction to the respondents to consider the representation of the petitioner dated 27.03.2019 and 04.05.2019 regarding regularizing the services of the petitioner in the post of Music Teacher as per G.O.Ms.No.151, Social Welfare Department, dated 16.10.2018.

2.It is the case of the petitioner that the petitioner was selected for appointment to the post of Music Instructor by an order dated 03.03.2012 passed by the 3rd respondent and he joined service on 06.03.2012. The petitioner is a physically challenged person with 80% of disability from the Certificate issued by the Government of Tamil Nadu. He had passed TET examination. He belongs to Scheduled Caste Community. After completion of 8 years of service, his service is yet to be regularized. The Government had issued G.O.Ms.No.151, Social Welfare Department, dated 16.10.2008 issuing directions to regularize the service of physically challenged persons working in all the Departments who had completed two years of service on consolidated pay. It was also directed that all the head of the departments should follow the said Government Order and in case, any relaxation is required, the head of the departments should obtain relaxation from the Government and issue regularization orders. Though there are Government Orders directing the respondents to regularize the service of the physically challenged persons who are working on consolidated pay for more than two years, the respondents have not regularized the service of the petitioner and the petitioner continued as a Music Instructor on a consolidated pay and with a meager amount of Rs.7,700/-. Hence, the petitioner made representations to the respondents on 27.03.2019 and 04.05.2019, till date no order has been passed.

3.The learned Government Advocate appearing for the respondents would submit that at Paragraph 8 of the counter, it is stated that the Government had issued orders to regularize the service of the physically challenged persons working in all the departments who had completed two years of service on consolidated pay. Following the said order, the petitioner being a physically challenged person should also be considered for granting regularization and permanent absorption in Music Teacher post. She would further submit that the request of the petitioner was not considered by the Government as the petitioner has not complied with the terms and conditions stipulated in the Government Order. The petitioner joined duty as part time instructor in music on 07.03.2012 in Panchayat Union Middle School, Kattiganapallipudur. The petitioner is teaching 6th to 8th Standard students. The petitioner is handling only two periods per day and only six periods totally in a week and he works only 1.30 hours in the School in a day. The petitioner is not working as a full time instructor. Moreover, he was not appointed in the Government sanctioned regular time scale of pay post adhering the service rules he was appointed temporarily to teach music students under Sarava Shicksha Abhiyan Scheme and on completion of the said project, he will be terminated from service. Hence, he could not be

considered as a full time worker and his service could not be regularized as per rules.

4.Since the petitioner was appointed as part time instructor for implementing the Scheme, the petitioner cannot claim regular appointment and mere length of service would not confer any right on them to claim regularization or permanent absorption in violation of the rules in force. Hence, this Court cannot issue any direction to consider the representation of the petitioner.

Accordingly, this Writ Petition is dismissed, however, this order will not stand in any way in participation in the next interview by the Government. No costs.

Sd/-

Assistant Registrar(CS-VI)

// True Copy//

Sub Assistant Registrar

mps

To

- 1 The Secretary to Government,
State of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai - 600 009.
- 2 The Director of School Education,
DPI compound, Teynampet,
Chennai - 600 006.
- 3 The Chief Educational Officer,
Krishnagiri District.

+1cc to Mr.S.SELvathirumurugan, Advocate, SR.No.83379.

W.P.No.17887 of 2019

SV(CO)

CSR: 14.02.2020