

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2019

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.2803 of 2018
C.M.P.No.23265 of 2018

1. The Government of Tamilnadu
Rep. by its Secretary,
Education, Science and Technology
(H.S.II) Department, Chennai - 600 009.
 2. The Director of School Education
College Road, Chennai - 600 006.
 3. The Joint Director of School Education,
Vocational Education,
College Road, Chennai 600 006.
 4. The Chief Educational Officer,
Krishnagiri District,
Krishnagiri.
- ...Appellants/Respondents

K.S.Saravanan

...Respondent/Petitioner

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent, against the order made in W.P.No.22810 of 2015, dated 18.05.2017.

Prayer in W.P.No.22810 of 2015:- Petition filed U/A 226 of the Constitution of India to issue a Mandamus directing the respondents to send the Petitioner for short term training course of the concerned District Institute of Educational Training (DIET) within a stipulated time as may be fixed by this Honourable Court and regularize the service of the Petitioner as full time vocational instructor in terms of G.O. (Ms).No.834 Education Department dated 23.09.1994 and G.O.(Ms). No.358 School Education Department dated 18.8.1997 with effect

from initial date 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.

For Appellants : Mr.C.Munusamy
Special Govt. Pleader (Education)

JUDGMENT

(Judgment of the Court was made by S.MANIKUMAR, J)

Instant writ appeal is filed against the order made in W.P.No.22810 of 2015, dated 18.05.2017, by which, the Writ Court has directed the Chief Educational Officer, Krishnagiri District, Krishnagiri, 4th appellant herein, to send the respondent herein, for short term training course to the concerned DIET, as per G.O.Ms.No.834, Education Department, dated 23.09.1994, within the stipulated time.

2. It is the case of the respondent before the writ Court that he was appointed as a Vocational Instructor in Government Boys Higher Secondary School, Krishnagiri. The Government have issued an order to enable the Vocational Instructors found to be unqualified, to undergo training in the District Institute of Educational Training (DIET) and qualify themselves for appointment in regular time scale of pay.

3. Before the writ Court, respondent has further submitted that since many of the Vocational Instructors were not sent for training, as per the said Government Order, similarly placed persons who possess the prescribed qualifications filed the writ petitions in W.P.Nos.6821 and 6822 of 2011 and this Court, by order, dated 31.03.2011 allowed the writ petitions with a direction to the third respondent therein, to send the petitioners therein, for short term training course of the concerned District Institute of Educational Training (DIET), within a period of three months from the date of receipt of a copy of the order and regularize the services of the petitioners therein at full time vocational instructors in terms of G.O.Ms.No.834, Education Department dated 23.09.1994, if there is no other legal impediment.

4. The abovesaid order was challenged by the Government in W.A.Nos.158 & 159 of 2012 and a Hon'ble Division Bench, vide order, dated 07.02.2012, dismissed the appeals. Against which, S.L.P.No.18084 of 2011 has been filed before the Hon'ble Supreme Court and the same was also dismissed. Before the writ Court, the respondent has also placed reliance on a similar order made in W.P.No.18183 of 2013, dated 04.07.2013 in the matter of

K.M.Gunasekaran and 24 others v. The Government of Tamil Nadu and 18 others.

5. After considering the facts and circumstances of the case, following the abovesaid decisions and having regard to the fact that there is no impediment for the respondent to be sent for short term training course to the concerned DIET in terms of G.O.Ms.834, Education Department, dated 23.09.1994 and G.O.Ms.No.358, School Education Department, dated 18.08.1997, a learned single Judge, vide order, dated 18.05.2017, allowed the writ petition, with a direction to the Chief Educational Officer, Krishnagiri District, Krishnagiri, 4th appellant herein, to send the respondent for short term training course to the concerned DIET, as per the G.O.Ms.No.834, Education Department dated 23.09.1994, within a period of twelve weeks from the date of receipt of a copy of the order. Being aggrieved, instant writ appeal is filed.

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

6. Though several grounds have been raised, challenging the order of the writ court, we are not inclined to interfere with the same, as the writ Court, while giving direction to the fourth appellant to send the respondent for a short term training course to the concerned DIET, as per G.O.Ms.No.834, Education Department, dated 23.09.1994, considered the decision made in W.P.No.18183 of 2013, dated 04.07.2013 [K.M.Gunasekaran and 24 others v. The Government of Tamil Nadu and 18 others]. For non-compliance of the order made in W.P.No.18183 of 2013, dated 04.07.2013, contempt petition No.683 of 2015 has been filed. On notice, the appellants therein have filed Review Application No.276 of 2014, seeking to review the order dated 04.07.2013 in WP No. 18183 of 2013 and this Court, vide order, dated 09.10.2015, dismissed the said review application. The said order has been challenged in W.A.No.1463 of 2016. After considering the said submissions made on either side, the Division Bench of this Court, vide order, dated 30.10.2017, dismissed the writ appeal, as follows:-

"8. We have heard the counsel for both sides and perused the materials placed on record. It is the vehement contention of the appellants that the writ petitioners do not possess the requisite qualification for being considered for regularisation of their service. It is noticed from the order passed by the Government in G.O.Ms.No.358, School Education Department, dated 18.08.1997 that the Government has directed to impart a short term training for those who do not possess the requisite qualification or those

who are not qualified and thereafter to regularise them. On the basis of the aforesaid order passed by the Government, large number of unqualified Vocational Instructors were sent for training and thereafter they were regularised in service. When an order was passed by the Government conferring certain concession to similarly placed persons, it has to be extended to all those who are entitled to such concession.

9. The learned Additional Advocate General would next contend that the writ petitioners were initially appointed on various dates from 1991 to 2004 and they have approached this Court belatedly and therefore on the ground of delay and laches, the learned single Judge ought to have dismissed the writ petition. We are not inclined to accept such submission of the learned Additional Advocate General appearing for the appellants. In fact, the very same submission was made on behalf of the appellants herein before the Division Bench of this Court and it was rejected by Judgment dated 26.04.2017 passed in WA (MD) No. 1233 of 2013 holding that even though there was delay in approaching this Court, such delay cannot be given much significance to deprive the valuable right of the respondents therein. The relevant portion of the Judgment is extracted below:-

"5. Heard Mr. S. Sampathkumar, learned Special Government 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, realising 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 Government Order 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 the 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 Government Order grants certain benefits to unqualified Vocational Instructors, we find no infirmity in the order passed by the learned single Judge applying the said Government Order 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 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 has been dismissed on 01.08.2014. Subsequently, the Government Order has been passed 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."

10. In the aforesaid Judgment passed by the Division Bench of this Court, reference was also made to S.L.P. (Civil) Nos. 11338 and 11339 of 2014 filed by the appellants herein as against similar order passed by this Court and it was dismissed on 01.08.2014. Subsequently, the Government also passed an order in G.O. (2D) No. 50, School Education Department dated 27.08.2014, implementing the Judgment of the Honourable Apex Court. While so, we see no reason to take a different view and to allow the instant Writ Appeal filed by the appellants.

11. In the light of the above, we confirm the Order dated 09.10.2015 passed in Review Application No. 276 of 2014 in WP No. 18183 of 2013. The Writ Appeal is dismissed. However, there shall be no order as to costs. Consequently, CMP No. 18261 of 2016 is closed."

7. In the light of the above order, we are not inclined to interfere with the order of the writ Court. Hence, Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

skm

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Govt.of Tamil Nadu,
rep.by its Secretary,
Education, Science & Technology
(H &II), Dept.,
Chennai - 9.

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

3. The Joint Director of School Education,
Vocational Education,
College Road, Madras - 6.

4. The Chief Educational Officer,
Krishnagiri District

+lcc to the Govt.Pleader, High Court,Madras,Sr.No.1043

Vgv (CO)
Kak (29/03/2019)

सत्यमेव जयते

W.A.No.2803 of 2018

WEB COPY