



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.A(MD)No.1147 of 2013

and

M.P(MD)No.2 of 2013

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai - 600 009.
 - 2.The Director of Teacher Education,
Research and Training,
DPI Compound, College Road,
Chennai - 600 006.
 - 3.The Principal,
District Institute of Education and Training,
Munachiappatti,
Tirunelveli District. ... Appellants/Respondents 1 to 3
- Vs.
- 1.P.Gnanapragasam ... Respondent 1 / Petitioner
 - 2.The Correspondent,
Ooliyasthanam Teacher,
Palayapettai,
Tirunelveli,
Tirunelveli District. ... Respondent 2/Respondent 4

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent to allow the Writ Appeal and set aside the order dated 03.12.2012 in W.P(MD)No.10915 of 2007.

Prayer in WP(MD). 10915/ 2007 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the first respondent in Letter No. 7683/U2/2000-31 dated 07/03/2007 and the connected Letter No. 17100/U2/07 dated 07/09/2007 and to quash the same and further to direct the respondents 1 and 2 to regularize the petitioners service forthwith from 01/04/1979 on par with that of the similarly placed persons under G.O.Ms.No. 156(School Education UI Department) dated



23/12/1997 and G.O.Ms.No. 46 (Education Department) dated 08/02/2000 r/w G.O.Ms.No. 52 (Finance (FRII) Department) dated 14/01/1977 with all attendant benefits.

For Appellants : Mr.S.Srimathy,
Special Government Pleader
For Respondents : Mr.Ragatheesh Kumar,
for Mr.S.Xavier Rajini for R1
: No appearance for R2

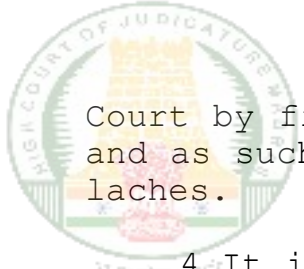
JUDGMENT

[Judgment of the Court was delivered by **M. SATHYANARAYANAN, J.]**

The official respondents in the writ petition are the appellants and aggrieved by the impugned order dated 03.012.2012, passed in WP(MD)No.10915 of 2007, in allowing the writ petition, came forward to file this Writ Appeal.

2.Mrs.S.Srimathy, learned Special Government Pleader appearing for the appellants would submit that admittedly the first respondent / writ petitioner was a contingent staff and in the light of catena of decisions rendered by the Hon'ble Supreme Court, he is not entitled to make any claim for regularisation as a matter of right and would further add G.O.Ms.No.577, School Education Department, dated 01.04.1981 has no application to the case on hand, for the reason that it pertains to regular School and not to the Teacher Training Institutes. It is also brought to the knowledge of this Court by the learned Special Government Pleader that the reliance placed upon the Government Orders of the first appellant dated 12.11.1997 and 08.02.2000 in G.O.Ms.No.156, School Education Department and G.O(1D) No.46, School Education Department respectively, pertain to individual claim of the concerned writ petitioners and it cannot be cited as a precedent and further pointed out that the first respondent retired from service in the year 2006 itself and as such, the claim of the first respondent / writ petitioner is also hit by delay and laches and prays for setting aside the impugned order allowing the writ petition and for allowing of this writ appeal.

3.Per contra Mr.Ragatheesh Kumar, learned Counsel appearing for the first respondent / writ petitioner would submit that the provisions of the Tamil Nadu Private Schools Regulations Act, did not distinguish all the non teaching staff employed in aided school or aided Teacher Training Institutes and also drawing the attention of this Court to the materials placed before this Court in the typed set of documents, would submit that the concerned official respondent has called for particulars for regularisation of the first respondent / writ petitioner and necessary proposal was also sent by the management of the school / second respondent herein and sometimes thereafter, no progress took place and therefore, the first respondent / writ petitioner was constrained to approach this



Court by filing the writ petition, immediately after his retirement and as such, it cannot be stated that his claim is hit by delay and laches.

4. It is the further submission of the learned Counsel appearing for the first respondent / writ petitioner that the learned Judge has taken note of the relevant Government Orders and after due and proper application of mind, has rightly reached the conclusion of allowing the writ petition and in the absence of any error apparent on the face of the record, the power of judicial review by this Court, in exercise of jurisdiction under Section 15 of Letters Patent is very limited and prays for dismissal of this Writ Appeal.

5. This Court has paid its best attention to the rival submissions and has perused the materials placed on record.

6. The learned Judge, while dealing with the merits of the matter has found that there is no prohibition in G.O.Ms.No.577 of the first appellant dated 01.04.1981, as to its application to the aided Teacher Training Institutes also. The learned Judge, in the impugned order has also placed reliance upon G.O.Ms.No.156 of the first appellant dated 12.11.1997 as well as G.O.(1D) No.46 dated 08.02.2000 and G.O.Ms.No.52, dated 14.01.1977 and reached the conclusion that the said Government Orders have been passed in respect of the specific individuals, who were employed as contingent staff in aided Teacher Training Institutes and as such the first respondent / writ petitioner is also entitled to the said relief.

7. The learned Special Government Pleader appearing for the appellants has invited attention of this Court to the additional typed set of papers dated 28.11.2013, which contains G.O.Ms.No.156 and G.O(1D)No.46 of the first appellant dated 12.11.1997 and 08.02.2000 respectively. A perusal of the same would disclose that they pertain to two individuals, who were employed as contingent staff in aided Teacher Training Institutes.

8. The primordial submission made by the learned Special Government Pleader appearing for the appellants is that in the light of the specific grant granted to the said institutes, the said Government Orders came to be passed and that too, in compliance of the orders passed in WP Nos.13307 of 1995 and 12330 of 1993 respectively. It is not in serious dispute that the first respondent / writ petitioner was employed as a contingent staff for nearly four decades and necessary proposal has also been mooted out to the concerned officials. If such submission of the learned Special Government Pleader is accepted, then the concerned officials, even at the threshold, could have rejected the said proposal, but, sought for certain clarifications in that regard.

<https://hcservices.courts.gov.in/hcservices/>
9. As rightly pointed by the learned Counsel appearing for the first respondent / writ petitioner, the official respondents / appellants herein did consider the claim of the persons similarly



placed in GOs.156 and 46 dated 12.07.1997 and 08.02.2000 respectively and accorded relief.

10. Though it is also the vehement and forceful submission of the learned Special Government Pleader appearing for the appellants that the claim of the first respondent / writ petitioner is hit by delay and laches, this Court is of the considered view that necessary proposal was initiated as early as during August 1985 and he has also been prosecuting his legal remedy from the year 2000 and as such, it cannot be said that his claim is hit by delay and laches.

11. The learned Special Government Pleader also expresses apprehension that in the event of dismissing this writ appeal, similar claim would also emanate in future and in all probability, it will open the Pandora's box. This Court is of the considered view that the present judgment in this writ appeal is to be rendered on the facts and circumstances of the present case only and in fact, the learned Judge has considered the individual grievances of the first respondent / writ petitioner and passed orders accordingly.

12. This Court on an independent appraisal and application of mind to the entire materials placed on record is of the considered view that there is no error apparent or infirmities in the reasoning assigned by the learned Judge for allowing the writ petition.

13. In the result, the Writ Appeal is dismissed, confirming the order passed in WP(MD)No.10915 of 2007. However, considering the facts and circumstances of the case, there shall be no orders as to costs. Consequently, connected miscellaneous petition is closed.

14. This Court also makes it very clear that the allowing of the writ petition and dismissal of the present writ appeal came to be rendered on the facts and circumstances of the present case only and it cannot be cited as a general proposition or precedent. It is also to be noted that the claim of the concerned individuals have to be decided on issue relating to the delay and laches also.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Secretary,
Department of School Education,
Esplanade,
Chennai - 600 009.



2.The Director of Teacher Education,
Research and Training,
DPI Compound, College Road,
Chennai - 600 006.

3.The Principal,
District Institute of Education and Training,
Munachiappatti,
Tirunelveli District.

+1 CC to M/s.XAVIER RAJINI, Advocate (SR-80055[F] dated
06/08/2019)

+1 CC to SPL GP (SR-79937[F] dated 06/08/2019)

W.A(MD)No.1147 of 2013
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MK/AE (20.08.2019) 5P 6C