



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 27.11.2019**

**CORAM**

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM  
AND  
THE HONOURABLE MRS.JUSTICE R.THARANI**

**W.A. (MD)No.1350 of 2019**

**and**

**CMP (MD)No.11343 of 2019**

M.Theivanayagi

.. Appellant/Petitioner

Vs.

1.The State of Tamil Nadu,  
Rep.by its Secretary to Government,  
Education Department,  
Fort St.George,  
Secretariat,  
Chennai - 600 009.

2.The Director of School Education,  
Higher Secondary Schools,  
College Road,  
Chennai - 600 006.

3.The Joint Director (Vocational)  
School Education,  
College Road,  
Chennai - 600 006.

4.The Chief Educational Officer,  
Tuticorin District,  
Tuticorin - 628 001.

5.The Headmaster,  
Govt.Hr.Sec.School,  
Mudivaithanendal (PO),  
Tuticorin District,  
Pincode - 628 102

... Respondents/Respondents

**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent, against  
the order passed by this Court in W.P.(MD).No.16856 of 2014, dated

<https://hoseervices.ecourts.gov.in/hoseervices/>



29.07.2019.

Prayer in WP(MD). 16856/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to regularize the petitioner s appointment in the time scale of pay as Vocational Teacher with effect from the date of her initial appointment (i.e.) from 01.08.2000 as well as directing the respondents to pay the full salary to till date.

For Appellants : Mr.A.Thirumurthy

For Respondents : Ms.S.Srimathy  
Spl.Govt.Pleader

**JUDGMENT**

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.A.Thirumurthy, the learned counsel counsel appearing for the appellant and Ms.S.Srimathy, who accepts notice for the respondents.

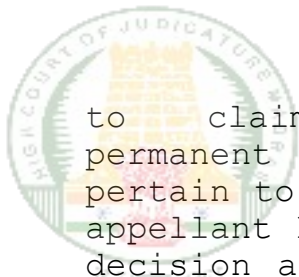
2. This appeal filed by the Writ Petitioner is directed against the order in W.P. (MD)No.16856 of 2014, dated 29.07.2019.

3. The appellant filed a writ petition praying for a direction to direct the respondents to regularize her appointment in the time scale of pay, as a vocational teacher, with effect from the date of her initial appointment ie., from 01.08.2000 and direct the respondents to pay full salary from the said date.

4. The appellant's case was based upon a decision taken by the Government in G.O.Ms.No.35, dated 02.02.2017, by which, the benefit of regularization were given to a part time vocational teachers, by directing them to under go a training for a period of three months.

5. Mr.A.Thirumurthy, the learned counsel appearing for the appellant would submit that the appellant's case is a much better case than the cases of the teachers, which were considered by the Government in G.O.Ms.No.35, dated 02.02.2017, because the appellant is fully qualified to hold the post of vocational teacher.

6. The learned Writ Court after noting the fact held that it is no doubt true that the Government has issued G.O.Ms.No.35, dated 02.02.2017, and based on the said Government Order, several candidates have been granted benefit, but such benefits cannot be extended endlessly for several years. The learned Writ Court had referred to one of its earlier decision, which was the decision in W.P. (MD)Nos. 28633 to 28646 of 2014, dated 12.12.2017, which pertain

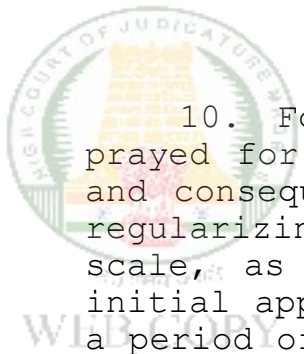


to claims of certain other employees for regularization and permanent absorption. We find that the said matter did not pertain to a case of part time vocational teachers as that of the appellant before us. The learned Writ Court had quoted the entire decision and held that the grant of regularization in violation of recruitment rules is not permissible in the light of the decision of the Constitutional Bench in '**Umadevi's**' case. Accordingly, the writ petition was dismissed.

7. The core issue in the instant case is that whether the appellant can be discriminated and not be extended the benefit of G.O.Ms.No.35, dated 02.02.2017. The answer to the question should be in favour of the appellant, because, there is no distinguishable feature pointed out by the respondents, as to why the benefits of G.O.Ms.No.35, dated 02.02.2017, should not be granted to the appellant. With regard to the qualification of the appellant, she has secured a Diploma in Electronics and Communication Engineering in the year 1992 and registered her name in the Employment Exchange in the same year. It has not been disputed by the respondent that she has requisite qualifications for being brought into regular establishment, by applying G.O.Ms.No.35.

8. Furthermore, the respondent cannot dispute the fact that identical case was considered by the Division Bench of this Court in the case of **Government of Tamil Nadu and 3 others Vs. S.Velayuthaperumal** in **W.A(MD)No.1233 of 2013**, by Judgment dated 26.04.2017. In the said judgment, there was a reference to another Judgment of the Principal Bench of this Court in **W.A(MD)Nos.158 and 159 of 2012**, dated 07.02.2012, by which, the appeals filed by the Government were dismissed and benefit was granted to regularize the services of the part time vocational instructors. As against the said decision, the State filed Special Leave Petition in SLP(Civil) Nos.11338 and 11339 of 2014, which were dismissed by the Hon'ble Supreme Court, by order dated 04.02.2019 observing that no case is made out to interfere with the impugned orders passed by the High Court. Accordingly, the Special Leave Petitions were dismissed.

9. Yet another decision of the Division Bench in the case of **Government of Tamil and others Vs. K.M.Gunasekaran and others** in **W.A. (MD)No.1463 of 2016**, dated 30.10.2017 was also decided against the State. The Special Leave Petition filed by the Government against the said decision in SLP(Civil) Diary No(s).37734 of 2018 was dismissed by the Hon'ble Supreme Court, by order dated 04.02.2019. We are also informed that those decisions have been implemented by the respondents. That apart, from the proceedings of the Directorate of Tamil Nadu School Education, Chennai, dated 22.08.2019 we find that in as many as 27 cases orders were passed by the Court, benefits have been granted. Therefore, we are of the considered view that, the said benefits cannot be denied to the appellant.



10. For the above reasons, the Writ Appeal is allowed, as prayed for and the order passed in the Writ Petition is set aside and consequently, and the respondents are directed to pass orders, regularizing the appointment of the appellant in the regular time scale, as vocational teacher, with effect from the date of her initial appointment. This direction should be complied with within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS)

MPK

To

- 1.The Secretary to Government,  
The State of Tamil Nadu,  
Education Department,  
Fort St.George, Secretariat,  
Chennai - 600 009.
- 2.The Director of School Education,  
Higher Secondary Schools,  
College Road, Chennai - 600 006.
- 3.The Joint Director (Vocational)  
School Education,  
College Road, Chennai - 600 006.
- 4.The Chief Educational Officer,  
Tuticorin District,  
Tuticorin - 628 001.
- 5.The Headmaster,  
Govt.Hr.Sec.School,  
Mudivaithanendal (PO),  
Tuticorin District,  
Pincode - 628 102

+1 CC to M/s.A. THIRUMURTHY, Advocate (SR-101763[F] dated 27/11/2019

**W.A. (MD)No.1350 of 2019**

**27.11.2019**

JMN(16.12.2019) 4P : 7C