

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5398 of 2021

U.Gandhi

... Petitioner

-vs-

- 1.The Government of Tamil Nadu,
represented by the Secretary to the Government,
School Education Department,
Fort St. George,
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.
- 5.The Headmaster,
R.V.Government Boys Higher Secondary School,
Hosur, Krishnagiri District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to regularise the service of petitioner as Vocational Instructor for Auditing and Accountancy or in the post of General Machinist and deploy the petitioner in a regular vacancy and grant him service and monetary benefits from the date of appointment as Vocational Instructor in General Machinist from 14.08.2004.

For Petitioner : Mr.R.Saseetharan

For Respondents: Mr.P.Raja,
Government Advocate

O R D E R

This Writ petition is filed, seeking a direction to the respondents to regularise the service of the petitioner as Vocational Instructor for Auditing and Accountancy or in the post of General Machinist and deploy him in a regular vacancy and grant him service and monetary benefits from the date of appointment as Vocational Instructor in General Machinist from 14.08.2004.

2.Mr.P.Raja, learned Government Advocate takes notice for the respondents. By consent, final orders are passed in the Writ Petition at the admission stage.

3. It is the case of the petitioner that the Government of Tamil Nadu has introduced the Vocational Stream of Education at 11th and 12th Std. in Higher Secondary School in the State of Tamil Nadu. In this regard, the Government of Tamil Nadu had issued a Government Order in G.O. Ms. No.1719 dated 14.09.1978 to run some of the vocational courses in the State of Tamil Nadu at Higher Secondary School Level. The petitioner has been working as Vocational Instructor on full time basis from 13.06.2001 in the above said school without any break. Since he was qualified with B.Com., M.Com. and B.Ed. as well as with D.M.E., he was eligible to hold the post of Vocational Instructor in Auditing and Accountancy as well as in General Machinist. However, the Director of School Education has directed that as per the Government Order in G.O. Ms. No.80 School Education Department dated 15.09.2020 the vocational instructors have to be regularised and that if the courses are not available in the school, the vocational instructor so regularised shall be fitted in the schools where vacancies are available and be paid regular time scale of pay. Therefore, the petitioner made a representation to the respondents to regularise his service on the ground that he worked for more than 10 years in the sanctioned course and fit him in the vacancies available as per G.O. Ms. No.80 and consequential Proceedings of the Director of School Education dated 23.09.2020. As there was no response, the petitioner is before this Court seeking the above prayer.

4. According to the learned counsel for the petitioner, the petitioner has submitted a representation dated 08.10.2020 to regularise his service and to employ him in a regular vacancy, but, the same is yet to be disposed of by the respondents. However, the learned counsel submitted that it would suffice, if the said representation made by the petitioner is directed to be considered by the respondents.

5. Mr.P.Raja, learned Government Advocate taking notice for the respondents, submitted that the respondents be directed to consider the petitioner's representation and pass orders in accordance with law.

6. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the representation preferred by the petitioner dated 31.12.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondents shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 31.12.2020 and this order, to the respondent forthwith;

v) The respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file

without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar
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vum

To

1. The Secretary to the Government,
The Government of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director of School Education,
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- 4.The Chief Educational Officer,
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- 5.The Headmaster,
R.V.Government Boys Higher Secondary School,
Hosur, Krishnagiri District.

+1 CC TO MR.R.SASEETHARAN, ADVOCATE SR. 14703

W.P.No.5398 of 2021

NMI(CO)
R.G.16.4.2021