



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.24798 of 2010

R.Anandan

.. Petitioner

Versus

1. The Principal Secretary,
School Education (V.E.) Department,
Government of Tamil Nadu,
Secretariat,
Fort St.George,
Chennai - 600 009.

2. The Director of School Education,
D.P.I. Campus,
College Road,
Chennai - 600 006.

3. The Chief Educational Officer,
Saidapet,
Chennai - 600 015.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the issue of the order, dated Nil October, 2010 in proceedings bearing Na.Ka.No.5386/A4/2010 and the consequent issue of the revised order, dated 13.10.2010 bearing Na.Ka.No.5386/A4/2010 by the Chief Educational Officer, Saidapet, Chennai - 15, the third respondent herein and quash the same and direct the respondents to regularize the petitioner's services as Vocational Instructor, Government Higher Secondary School, MGR Nagar, Chennai - 600 078 and thus, permit the petitioner to serve in the General Machinist Course or in the alternative in any of the other Government Schools as the Government may decide from time to time.

For Petitioner : Mr.D.Ashok Kumar

For Respondents : Mrs.E.Ranganayaki,

Additional Government Pleader



ORDER

The Writ Petition is filed by the petitioner challenging the proceedings, bearing Na.Ka.No.5386/A4/2010 and the consequent issue of the revised order, dated 13.10.2010, bearing Na.Ka.No.5386/A4/2010 by the Chief Educational Officer, Saidapet, Chennai - 15, the third respondent herein.

2. The case of the petitioner is that the petitioner joined the service as Vocational Instructor on 13.10.2010 having possessed of the relevant qualification and he was paid a consolidated salary by the Parent-Teacher Association. Subsequently, he was disengaged from the service in the month of April, 2010. Thereafter, by the proceedings of the second respondent, dated 08.07.2010, the cases of the teachers, who have joined service between 02.06.2000 to 31.03.2007, were considered and their services were regularised. The petitioner was left out just because he was disengaged from the service only four months prior to the said order. Therefore, he would submit that the case of the petitioner should also be considered as similarly situated teachers who were being regularised.

3. Per contra, Mrs.E.Ranganayaki, learned Additional Government Pleader would submit that this Court in exercise of power under Article 226 of the Constitution of India, cannot order any regularisation unless it is provided for by the scheme of the Government, in view of the judgment of Hon'ble Supreme Court of India in State of Karnataka Vs. Umadevi¹ case. As far as the scheme of the Government is concerned, when the cases were considered in the month of July, 2010, the services of the employees whoever there in the service were regularised, unfortunately, depending on the strength of the students and the subject involved, some of the teachers, who were earlier served as Vocational Instructors were discharged from duty for want of necessity and the petitioner is one such person and therefore, since he was not in service as on the date of the scheme of the Government, he could not be regularised in service.

4. The learned Counsel for the petitioner would submit that the respondents cannot take such a narrow stand especially having decided to confer the benefit of similarly situated individuals.

5. However, I am unable to accept the said contention of the learned Counsel for the petitioner because a Division Bench

1 (2006) 4 SCC 1



of this Court, in its judgment in W.A.No.995 of 2020, dated 01.12.2020, has considered the very same issue and had held that Vocational Instructors, who were in service as on the date of the Government Order, can be considered and any such interpretation enlarging scope of the Government Order is impermissible. Therefore, since the petitioner was not in service, when the Government undertook the exercise of conferring regularisation, he was not granted regularisation of service.

6. Therefore, this Court is unable to interfere with the action of the respondents and the present Writ Petition fails and is accordingly dismissed. No costs. Consequently, M.P.Nos.1 and 2 are closed.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

grs

To

1. The Principal Secretary,
School Education (V.E.) Department,
Government of Tamil Nadu,
Secretariat,
Fort St.George,
Chennai - 600 009.

2. The Director of School Education,
D.P.I. Campus,
College Road,
Chennai - 600 006.

3. The Chief Educational Officer,
Saidapet,
Chennai - 600 015.

+1cc to the Government Pleader, SR.No.25485

W.P.No.24798 of 2010

GP(CO)
CB(21/04/2022)