

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 09.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.Nos.11726, 11729, 11735, 11855, 11858,
11861, 11864, 11869 and 11871 of 2022
and

W.M.P.Nos.11184, 11186, 11190, 11191, 11194, 11196,
11288, 11289, 11292, 11293, 11296, 11298, 11300, 11301,
11303, 11305, 11307 and 11308 of 2022

E.KAMALAKANNAN	... PETITIONER in WP.No.11726 of 2022
P.JAGADEESHKUMAR	... PETITIONER in WP No.11729 of 2022
S.ARUMUGARAJ	... PETITIONER in WP No.11735 of 2022
M.DHANASEKARAN	... PETITIONER in WP No.11855 of 2022
R.SANKAR RAJA	... PETITIONER in WP No.11858 of 2022
A.AKKINI RAJA	... PETITIONER in WP No.11861 of 2022
S.MUNISWARAN	... PETITIONER in WP No.11864 of 2022
T.MANIMARAN	... PETITIONER in WP No.11869 of 2022
ALAGUCHELLAPANDI	... PETITIONER in WP No.11871 of 2022

Vs.

1. The Government of Tamil Nadu
Represented by its Principal Secretary,
Department of Higher Education (11)
Fort. St. George, Chennai.
2. The Commissioner
Higher Education
Directorate of Technical Education
Sardar Patel Road, Guindy - 600 025.
3. The Principal
No.133, Government Polytechnic College
Checkkanurani 625514, Tirumangalam Taluk,
Madurai District.

... 3rd Respondent in WP.Nos.11726, 11855
11858, 11861, 11864, 11869 of 2022

The Principal,
No.121, Government Polytechnic College,
Melur, Madurai District - 625 109.

... 3rd Respondent in WP.Nos.11729,
11735, 11871 of 2022

Prayer in all WP's: Writ Petition is filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned G.O. Ms. No.290, Higher Education (11) Department, dated 04.11.2019 issued by the 1st Respondent and quash the same in so far as the petitioner is concerned and further direct the respondents to regularize the service of the petitioner as Lecturer Mechanical Engineering Department in the 3rd respondent Government Polytechnic College with effect from the date of his joining and further direct the respondents to pay equal pay on par with the other permanent lecturers and issue such further or other appropriate orders.

For Petitioner : Mr.M.Kaviveerappan
(in all WPs)

For Respondents : Mr.T.Chezhiyan
Additional Government Pleader
(in all WPs)

C O M M O N O R D E R

These Writ Petitions have been filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned G.O. Ms. No.290, Higher Education (11) Department, dated 04.11.2019 issued by the 1st respondent and quash the same in so far as the petitioners are concerned and further, to direct the respondents to regularize the service of the petitioners as Lecturer Mechanical Engineering Department in the 3rd respondent Government Polytechnic College with effect from the date of his joining and further, to direct the respondents to grant equal pay on par with the other permanent lecturers.

2. According to the petitioners, they were working as full time temporary Assistant Professors / Lecturers on contract basis under consolidated remuneration of Rs.15,000/- per month by virtue of Government Order in G.O.(D).No.290, High Education (II) Department, dated 04.11.2019. The relevant portion of the said Government Order reads as follows:-

2. Now the Commissioner of Technical Education in his letters 2nd read above has stated as follows:-

- i) It is mandatory to get the approval of All India Council for Technical Education (AICTE) every year to admit students in all Engineering and Polytechnic Colleges. In order to obtain Extension of Approval (EOA) from AICTE every year, it is very much essential to fill up the vacant teaching posts periodically in order to maintain the faculty student ratio of 1:20 for Engineering Colleges and 1:25 for Polytechnic Colleges to fulfill the faculty requirements as per AICTE norms.
- ii) It is very much essential to get NBA or NAAC accreditation for all Government Engineering and Government Polytechnic Colleges to get autonomous status for the institutions and also get AICTE approval for introduction of new courses and increase in intake in existing courses. In order to get NBA / NAAC accreditation, faculty student ratio should be strictly adhered to the AICTE norms.
- iii) the Teachers Recruitment Board is taking steps for filling up of 1058 vacant posts in Government Polytechnic Colleges for the past two years. Due to unforeseen circumstances and pending court cases in the Hon'ble High Court, the Teachers Recruitment Board is not in a position to fill up the long pending vacant posts till date.
- iv) While calculating the Faculty, Student Ratio, the Expert Visiting Committee members from AICTE, NBA and NAAC are not considering the faculty appointed on Hourly basis. However, faculty members appointed on contract basis under consolidated pay are considered by the Expert team Members for calculating the Faculty, Student Ratio.
- v) In order to fulfill the faculty requirements as per AICTE norms during the AICTE, NBA and NAAC Expert Committee visit and also enhance quality of Technical Education in Tamil Nadu, it is essentially required to fill up all vacant posts of Assistant Professor, Associate Professor Professor in Government Engineering Colleges by appointing Assistant Professor and HOD and Lecturers in Government Polytechnic Colleges and Special Institutions by appointing Lecturers on contract basis under consolidated pay of Rs.15,000/- per month by the respective

Principals from the Block Grant Fund / Government fund from the appropriate Head of account (with one month break in a year).

- vi) As per AICTE revised norms, revised sanctioned post for Government Engineering Colleges and Polytechnic Colleges to be 834 and 1869 respectively. Hence as per latest AICTE norms, the actual number of Faculties required to be filled up now in Government Engineering Colleges and Government Polytechnic Colleges is 220 (834-614) and 1311 (1869-558) respectively.

4. The Government have examined the proposal of the Commissioner of Technical Education and decided to accept it. Accordingly, the Government permit the Director of Technical Education to fill up 1531 vacant Teaching Posts in the Government Engineering Colleges (220 posts) and Government Polytechnic Colleges (1311 posts) by the respective Principals by appointing full time temporary lecturers on contract basis under consolidated remuneration of Rs.15,000/- per month, instead of appointing part-time lectures in hourly basis, until all vacant sanctioned posts completely filled up by the Teachers Recruitment Board and sanction a sum of Rs.2526.15 lakh (Rupees twenty five crore twenty six lakh and fifteen thousand only) towards remuneration for the faculty to be appointed subject to the following conditions:-

- i) The faculty shall be appointed only for 11 months in a year for avoiding legal disputes in future.
- ii) The service of faculty shall not be regularized in future.
- iii) The appointment of faculty is purely temporary and they will be terminated from the service by the Government, after necessary is ceased.
- iv) No honorarium will be paid to faculty to be appointed on contract basis on consolidated pay."

3. Challenging the aforesaid Government Order, the petitioners have filed the instant writ petitions before this Court for the aforesaid prayer.

4. The learned Additional Government Pleader appearing for the respondents, on instructions, submitted that the petitioners are presently working as consolidated pay Lecturers purely on temporary basis. They were given break in service in May 2022 as per the conditions given in G.O.(D).No.290, Higher Education

(II) Department, dated 04.11.2019, as such they had a continuous service of 11 months only. As per the Government norms the consolidated pay Lecturers are only engaged by the Principals for taking classes and they are paid as per norms laid down in the said Government Order.

5. He further submitted that after posting of regular staff, the hourly basis and consolidated pay lecturers will be relieved from service in Government Polytechnic Colleges and Special Institutions. It is purely ad-hoc arrangements till regular candidates are selected through Teachers Recruitment Board. Now, the Government taken decision to fill up vacancies and notification has been issued for recruiting the Lecturers in Government Polytechnic Colleges and Special Institutions.

6. According to the respondents, the Teachers Recruitment Board has completed the process of selection for 1060 Lecturer posts and the final selection list will be issued shortly.

7. In view of the above, the petitioners are not entitled the relief of seeking regularization of their services. Pursuant to the recruitment notification, except one of the writ petitioners submitted application seeking appointment to the post of Lecturer in the Government Polytechnic Colleges and Special Institutions. Therefore, the petitioners cannot have any legal right to seek their remedy. The said appointment is purely temporary appointment till the regular appointment is made by the Government. Therefore, the request made by the petitioners for regularization on par with the regular Lecturers cannot be considered and untenable.

8. At this stage, the learned counsel for the petitioners seeks liberty to the petitioners that they shall not be disturbed till the regular appointment has been made by the respondents/Department.

9. On a perusal of the written instructions filed by the Commissioner of Technical Education, Chennai, reveals that after posting of regular staff, the hourly basis and consolidated pay lecturers will be relieved from service in Government Polytechnic Colleges and Special Institutions.

10. Recording the said statement, there is no merit in the instant writ petitions and they are liable to be rejected.

11. Accordingly, the writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary,
The Government of Tamil Nadu
Department of Higher Education (11)
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Chennai.
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4. The Principal,
No.121, Government Polytechnic College,
Melur, Madurai District - 625 109

+9ccs to Mr.M.Kaviveerappan, Advocate, S.R.Nos.34121 to 34129

+1cc to the Government Pleader, S.R.No.34540

W.P.Nos.11726, 11729, 11735, 11855,11858,
11861, 11864, 11869 and 11871 of 2022

JP(CO)
UMA(18/07/2022)