



W.A.No.568 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.A.No.568 of 2020 and

CMP No.8115 of 2020

1. The Chief Educational Officer,
Villupuram, Villupuram District.
2. The District Educational Officer,
Villupuram, Villupuram District.
3. The Head Master,
Government Higher Secondary School,
Panaiyapuram, Villupuram

... Appellants

Vs.

G.Govindasamy

... Respondent

Prayer: Writ Appeal under Clause 15 of the Letters Patent against the order dated 21.10.2019 in W.P.No.23525 of 2019 on the file of this Court.

For Appellants : Mr.L.S.M.Hasan Fizal, Addl.Govt.Pleader

For Respondent : Ms. Suneetha



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J U D G M E N T

WEB COPY (Judgment of the Court was delivered by D.KRISHNAKUMAR, J.)

The Writ Court has passed a common order in W.P.No. 23520, 23525 of 2019 etc. batch dated 21.10.2019 and challenge was made with regard to W.P.No.23525 of 2019, by this intra Court Appeal by the official respondents.

2. The present writ petitioner was working as a teacher and he and others had filed the the above said batch of writ petitions seeking re-employment to them till the end of the academic year in the same school, since they were at at the verge of attaining superannuation during the middle of the academic year. The Writ Court, vide its order dated 21.10.2019, has allowed the writ petitions and directed the appellants herein to issue re-employment orders to the writ petitioners till the end of academic years is over. The above order is impugned herein.

3. The learned Additional Government Pleader, appearing for the appellants submitted that, the respondent herein/writ petitioner is a surplus



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teacher and hence, he is not entitled for re-employment. He further submitted that, the issue involved in this matter had been dealt with by a Division Bench of this Court in W.A.Nos.259, 381 of 2019 etc. batch by order dated 10.12.2021 and the Division Bench has allowed the writ appeals, by setting aside the order of re-employment passed by the Writ Court and hence, on the same line the Writ Appeal may be allowed.

4. The learned counsel appearing for the respondent fairly agreed that the issue involved in this matter is covered by the above said judgment of the Division Bench.

5. In the above said Writ Appeals in W.A.Nos.259, 381 of 2019 etc. batch, by common judgment dated 10.12.202, the Division Bench of this Court, by discussing the matter elaborately with regard to G.O.(Ms).No.261 dated 20.12.2018, has observed as under.

23. The Coordinate Bench of this Court in W.A.No.107/2020 dated 16.03.2021, has categorically held that G.O.(Ms).No.261, School Education Department, dated 20.12.2018, the Government has taken a policy decision to the effect that the teachers who attained superannuation during the middle of the academic year, will not be entitled to re-



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employment, when there are surplus teachers. The Coordinate Bench has further held that the re-employment is not a matter of right and once the teacher attains the age of superannuation, the relationship between master and servant ceases. The Coordinate Bench has further held that the re-employment is a fresh employment and when a permission is sought to re-employ a Government Teacher or a teacher of an aided institution, conditions will always be attached. We are in respectful agreement with the findings of the Coordinate Bench.

24. In view of the above discussions, the order of the learned Single Judge needs interference and we set aside the order of the learned Single Judge. Accordingly, the writ petitions are dismissed and the Writ Appeals are allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Therefore, as the issue had already been dealt with by a Division Bench of this Court, as stated supra, we inclined to allow the Writ Appeal.

6. Accordingly, the Writ Appeal stands allowed, by setting aside the order passed by the Writ Court in W.P.No.23525 of 2019 dated 21.10.2019. Consequently, connected miscellaneous petitions is closed.

(D.K.K.J.) (K.G.T.J.)

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Index: yes/no
Internet: yes/no
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