



W.A.No.1727 of 2018

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

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M.Govindaraj

...Appellant

Vs.

1.The Government of Tamil Nadu,
Rep. By its Secretary,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai – 600 009.

2.The Commissioner,
Corporation of Greater Chennai,
Rippon Building, Chennai – 600 003.

3.The Deputy Commissioner (Education),
Corporation of Greater Chennai,
Rippon Building, Chennai – 600 003.

4.The Education Officer (Education Department),
Corporation of Greater Chennai,
Rippon Building, Chennai – 600003.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 11.04.2018 made in W.P.No.8615 of 2018.



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For Appellant : Mr.K.Raja

For Respondents : Mr.L.S.M.Hasan Fizal

Additional Government Pleader for R1

Mr.G.T.Subramanian

Standing Counsel for R2 to R4

J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

This intra-court appeal is at the instance of the appellant challenging the order of the Writ Court, dismissing his Writ Petition, seeking a mandamus, directing the 2nd respondent / Corporation to regularize his services from the date of his initial appointment as Vocational Instructor namely, 27.04.2000 and to grant him all attendant benefits by considering his representation.

2.The facts that are necessary for disposal of the appeal are as follows:-

2.1.The Government of Tamil Nadu by G.O.Ms.No.55 dated 26.04.1999 permitted the Chennai Corporation to commence an Industrial



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Training Institute. The said Government Order required six courses to be commenced. Pursuant to the same, the petitioner along with three others was appointed as Instructor in the Industrial Training Institute by resolution of the Corporation dated 27.04.2000. The petitioner along with his colleagues was relieved from service on 31.10.2003 on the ground that new posts have not been approved by the Government. This order dated 31.10.2003 was subject matter of challenge in W.P.No.30823 of 2003 by the petitioner and two of his colleagues.

2.2.This Court while allowing the Writ Petition, directed the petitioner to be reinstated in service in the same post from 01.07.2004. It was also made clear that they would not be entitled to salary for the period between 01.11.2003 and 30.06.2004. Soon after the disposal of the Writ Petition by this Court on 24.06.2004, the Government issued G.O.Ms.No.292 on 06.08.2004 sanctioning the posts for the Industrial Training Institute. The following posts were sanctioned by the Government in the said Government Order.



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<u>Sl.No.</u>	<u>Name of the Post</u>	<u>No. of Posts</u>
1.	Principal	1
2.	Group Instructor / Training Officer	1
3.	Vocational Instructor / Junior Training Officer JTO Trade JTO Theoretircal JTO Practical JTO Drawing JTO Maths	13
4.	Workshop Assistant	1
	<u>Non-Technical:</u>	
5.	Office Manager / Office Superintendent	1
6.	Store-keeper	1
7.	Assistant	1
8.	Typist	1
9.	Junior Assistant	1
10.	Office Assistant	1
	Total	22

2.3. There upon, the petitioner and two others were appointed as Vocational Instructors in the Industrial Training Institute on 09.09.2004 with effect from 01.07.2004 again temporarily on a consolidated salary. The petitioner was subsequently promoted as Principal of the Institute on 15.11.2006. On 30.11.2009, the Corporation passed a resolution bringing



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all these employees of the ITI into regular time scale of pay. The petitioner's services were regularized in the post of the Principal from the date on which, he was appointed as a Principal i.e., from 15.11.2006.

2.4.The petitioner thereafter, made a representation to the effect that he should be conferred the benefits from the date of his initial appointment atleast on par with one T.Rajmohan, who was appointed along with the petitioner and died, on 21.01.2002, before termination. The petitioner also sought support from the fact that the Writ Petition filed by the wife of the said T.Rajmohan was allowed by this Court with a direction to treat him as a permanent employee upon completion of 480 days of service in terms of Section 3(1) of Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. The fact that the said judgment of the Writ Court made in W.P.No.22088 of 2010 dated 19.10.2010 was confirmed by a Hon'ble Division Bench in W.A.No.167 of 2011 and a Special Leave Petition against the judgment of the Division Bench was also dismissed by the Hon'ble Supreme Court was heavily relied upon by the petitioner in support of his contention.



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2.5. Even though no counter was filed by the Corporation in the Writ Petition, the Writ Court dismissed the Writ Petition on the ground that the initial recruitment of the petitioner was not a regular recruitment and it was temporary appointment on consolidated salary therefore, is hit by the judgment of the Hon'ble Supreme Court in Umadevi's case. Hence the appeal.

3. We have heard Mr.K.Raja, learned counsel appearing for the appellant, Mr.G.T.Subramanian, learned counsel appearing for the respondents 2 to 4 and Mr.Hasan Fizal, learned Additional Government Pleader for the 1st respondent.

4. The facts are not in dispute. The petitioner was appointed through employment exchange on 27.04.2000. He was relieved because of non-sanctioning of post on 31.10.2003, by which time he had served for more than 3 years and 6 months. Then said termination was challenged by the petitioner. The said Writ Petition came to be disposed of on 24.06.2004 with a direction to the Corporation to reinstate the petitioner in the post in



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which, he was working before the relieving order was passed. It was also observed that he would not be entitled to salary for a period from 01.11.2003 to 30.06.2004.

5. Soon after the order was passed by this Court, the Government passed a G.O.Ms.No.292 on 06.08.2004, sanctioning establishment of the Industrial Training Institute as well as staff for the Industrial Training Institute. Therefore, on 09.09.2004, the petitioner was accommodated as an Instructor in the Industrial Training Institute. He was appointed as a Principal on 15.11.2006 and was also regularized and was brought under the regular time scale of pay on 30.11.2009. It is not in dispute that the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 would apply to the Corporation. Any employee, who had complete 480 days of service within a period of two years is entitled to permanent status.

6. This Court had applied the said Act to a similarly placed person namely, T.Rajmohan who worked between 05.06.2000 and 21.01.2002. The



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order conferring the benefit of permanent status was challenged. Upon challenge, the same was confirmed. So, the judgment in W.P.No.22088 of 2010 has become final. It is between the Corporation and another similarly placed individual, who was also appointed on a consolidated pay. The petitioner is actually in a better position. The petitioner joined on 27.04.2000 and worked till 23.06.2003, for three years and six months. Therefore, he is entitled to the benefit of provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

7.The Act provides for conferment of permanent status on a person, who had worked on a consolidated salary in an Industrial Establishment for a period of 480 days in 24 calendar months. The facts are not in dispute here. The petitioner has worked more than three years on a consolidated salary as a temporary employee. Therefore, he would be entitled to the benefits of the said enactment. Rejection of the Writ Petition on the ground that the petitioner's initial appointment was irregular, in our opinion, cannot be justified. We therefore, unable to uphold the view of the Writ Court.



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8.Once it is found that the petitioner is entitled to the benefits of the statutory enactment, the same has to be allowed. Hence, the Writ Appeal will stand allowed. There will be a direction to treat the petitioner as a regular employee with permanent status from the date on which he had completed 480 days of employment. He should be brought into the time scale of pay prescribed for the post of Instructor in the Industrial Training Institute from the said date and he would be entitled all mandatory benefits and his services would also accounted for his pensionary benefits. The Corporation will work out the benefits and pay the same with a period of twelve weeks from the date of receipt of a copy of this order. No costs.

(R.S.M.,J.) (S.S.K.,J.)
06.02.2023

kkn

Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order



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WEB COPY To:-

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Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai – 600 009.
- 2.The Commissioner,
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Rippon Building, Chennai – 600 003.
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R.SUBRAMANIAN, J.
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