



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.23382 of 2016

A. Venkateshkumar

.. Petitioner

Vs.

1.The Secretary to Government
School Education Department
Fort St. George
Chennai – 600 009.

2.The Director of School Education
College Road
Chennai – 600 006.

3.The Chief Educational Officer
Namakkal District
Namakkal.

4.The Secretary
Sankar Higher Secondary School
Sankagiri West
Namakkal District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the orders passed by the 2nd respondent in



Na.Ka.No.79340/V1/E3/2015 dated 21.01.2016 and to quash the same and consequently, direct the respondents to regularize the services of the petitioner as Vocational Instructor with effect from 23.09.1994 in terms of G.O.Ms.No.68 School Educational Dept. dated 20.03.2007.

For Petitioner .. Mr. S. Kamadevan

For Respondents .. Mr. S. Ravikumar, Spl. Govt. Pleader

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus relating to the order passed by the 2nd respondent, Director of School Education, Chennai, in Na.Ka.No.79340/V1/E3/2015 dated 21.01.2016 and to set aside the same and direct the 1st and 2nd respondents to regularize the services of the petitioner as Vocational Instructor with effect from 23.09.1994 in terms of G.O.Ms.No.68 School Education Department dated 20.03.2007.

2.In the affidavit filed in support of the writ petition, it had been stated by the petitioner that he was appointed as a Vocational Instructor



(Computer Science) on 08.01.1990 in the 4th respondent School. He claimed that he had necessary educational qualification even at the time of the initial employment. However, his services were regularized only with effect from 06.11.1996 consequent to the orders issued in G.O.Ms.No.790 Education Department dated 06.11.1996.

3.It is the contention of Mr. S. Kamadevan, learned counsel for the petitioner that in the year 1975, the Government had revisited the nature of Education afforded in schools and had formulated new version and introduced 10+2+3 system. This would indicate after 10th standard, two years of Higher Secondary Education will have to be undergone by the students. This was contrasted with the earlier method, which had 11 years of school education and one year of Pre-University course and thereafter three years of College course. By the introduction of the two years Higher Secondary Education, various new subjects were introduced, which were called Vocational Stream. Since these were new subjects, there were no sanctioned posts or teachers who were appointed to take classes for those subjects. They were not regular teachers, but under part-time. The part-time teachers also discharge the same work as the regular teachers. There was



also a distinction of double part-time teacher and single part-time teacher.

The double part-time teachers were apparently in a position to take more classes and the single part-time teachers did not have that advantage.

4.The Government, initially at the time of regularization, regularized those they considered as double part-time. This distinction was struck down by the Court, stating that there should not be any distinction between the double part-time vocational teachers and single part-time vocational teachers.

5.It must be kept in mind that all these part-time teachers took classes only for those subjects, which are came under the vocational subjects. The petitioner who claimed that he was fully qualified was one of those who taught subject of Computer Science, which also came under Vocational Stream. He had been appointed as Vocational Instructor (Computer Science) on 08.01.1990.

6.Originally, the petitioner placed reliance on G.O.Ms.No.68, School Education Department dated 20.03.2007. This Government Order was



passed consequent to a string of orders in W.P.Nos.11389 to 11890 of 2004.

The distinction of double part-time vocational teachers and single part-time vocational teachers were challenged before the High Court and it was held that all of them should be uniformly considered. Thereafter, the issue of regularization came for question.

7.By G.O.Ms.No.834 Education Department dated 23.09.1994, it was stated that cut off date for regularization would be 23.09.1994. But again this was also questioned. This was questioned by those who claimed that juniors benefited from the said order and the seniors stood to disadvantage. The petitioner was one among them to question that particular order of regularization as 23.09.1994, since he was not benefitted by that Government Order. Directions were issued by this Court and subsequently a contempt petition was also filed. There were totally 201 such teachers who stood disadvantaged and who were not granted regularization from 23.09.1994. Out of the 201 teachers only ten of them filed the contempt petition. Those ten petitioners were granted regularization with effect from 23.09.1994. So far as the petitioner is concerned, the 2nd respondent has called for a report from the 3rd respondent / Chief Educational Officer and



the Chief Educational Officer by a communication dated 24.05.2015 had recommended that the petitioner stood disadvantaged, since there were juniors to him whose services had been regularized from 23.09.1994 and therefore, recommended that the petitioner should also be regularized from 23.09.1994.

8.The learned Special Government Pleader appearing for the respondents, on the other hand, pointed out the counter affidavit filed and stated that the petitioner had been granted regularization from 06.11.1996, by G.O.Ms.No.71 School Education (VE) Department dated 18.03.2010. The learned Special Government Pleader placed specific reliance on the said Government Order, which had traced the history and in which, it had been stated that 201 teachers stood disadvantaged and out of them 10 teachers had filed contempt petitions, therefore, for that 10 teachers regularization was granted.

9.I am not able to understand the rationale behind that particular order passed. If a few of the teachers were to be considered, since a contempt petition has been filed, everybody else should also given the same



advantage. The petitioner has been regularized with effect from 06.11.1996.

The only relief sought is to be granted notional pension from 23.09.1994 from the date of regularization of those, who, according to the petitioner were junior to them. The recommendation of the Chief Educational Officer had been overruled and the impugned order came to be passed by the 2nd respondent herein.

10.A perusal of the impugned proceedings show that since the petitioner had been regularized with effect from 06.11.1996, he should be satisfied with that and should not claim notional benefit or regularization with effect from 23.09.1994. But why the petitioner was not regularized on 23.09.1994, has not been explained. There is a specific proposal, which had been put up by the Chief Educational Officer / 3rd respondent. The 2nd respondent, if he is to overrule that particular proposal put up by the 3rd respondent, should give cogent reasons and should have forwarded the papers to the 3rd respondent for reconsideration. There is no reason given at all in the impugned proceedings.



11. In view of this particular fact, I hold that the petitioner will necessarily have to succeed for the relief sought in the Writ Petition and the petitioner will have to be granted notional benefit from 23.09.1994 and that should be considered as the date on which his service stood regularized. The respondents are directed to issue necessary proceedings within a period of four months from the date of receipt of a copy of this order. Accordingly, this Writ Petition is allowed. No costs.

17.07.2023

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking order: Yes/No
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C.V.KARTHIKEYAN,J.

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