



WEB COPY



W.A.No.2220 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.08.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.No.2220 of 2023
and
C.M.P.No.19221 of 2023

1.The State of Tamil Nadu
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.

2.The Director of Government Examinations,
Directorate of Government Examination,
College Road, Chennai-600 006

3.The Assistant Director,
Government Examinations,
Coimbatore District.

.. Appellants

Vs.

P.Neelaveni,
W/o. Paremaswaran,
No.15, Veni Nivas, Indira Nagar,
Irugu-Post, Coimbatre-641 103.

.. Respondent



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Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 27.10.2021 passed in W.P.No.22942 of 2021 on the file of this Court.

For Appellants : Mr.S.Silambannan
Additional Advocate General
assisted by Mr.Stalin Abimanyu,
Additional Government Pleader

For Respondent : Mr.A.R.Suresh, for Mr.K.Arumugam

JUDGMENT

[Judgement of the Court was delivered by R.MAHADEVAN, J.]

This writ appeal has been filed by the Government challenging the order dated 27.10.2021 passed by the learned Judge in W.P.No.22942 of 2021.

2.The respondent herein filed the aforesaid writ petition viz., W.P.No.22942 of 2021 stating that she is entitled for regularisation of service with effect from the date of her original appointment as has been implemented in the case of few others in terms of G.O.(1D)No.286 School



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Education (GE.1) Department dated 19.07.2016, G.O.(1D)No. 238 School

Education (Nee.Va.4(2)) Department dated 07.04.2017 and G.O.Pa.No.72

School Education (Aa.The) Department dated 28.02.2019 and also in terms of orders passed in W.A.No.1292 of 2017 dated 05.12.2017 and W.A.No.774 of 2020 dated 21.09.2020.

3.By order dated 27.10.2021, which is impugned herein, the learned Judge, after analysing the judgments passed by this Court in W.A.No.1292 of 2017 and W.A.No.774 of 2020 along with the Government Orders passed by the Government as pointed out by the respondent herein, directed the appellants herein to pass appropriate orders on the representation of the respondent herein, after duly considering the above judgments, within a period of 16 weeks from the date of receipt of copy of the order.

4.Challenging the aforesaid order passed by the learned Judge, the present writ appeal has been filed by the Government, stating that the respondent was appointed as a Section Writer in the year 1985 on daily wage basis at Coimbatore for doing the examination works and received



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consolidated payments and at the time of appointment, she was clearly made known that her appointment is purely temporary and it will not cover any statutory rules. Based on the guidelines issued in G.O.Ms.No.22 P&AR(F) Department dated 28.02.2006, the respondent herein and 110 others, who had completed 10 years of service as on 01.01.2006, were appointed as Record Clerks on 20.10.2006. The employees appointed on or after 01.04.2003 in the regular time scale have been covered only under New Contributory Pension Scheme and the fact remains that the respondent was absorbed as Record Clerk with regular time scale of pay only on 20.10.2006. The earlier services rendered by the respondent were only on consolidated pay basis and hence, such period cannot be considered for reckoning the qualifying service. To avail the benefit of G.O.Ms.No.408 Finance Department dated 25.08.2009 in respect of counting 50% of the service rendered in Non-Provincialised Service / Consolidated Pay / Honorarium / Daily Wages for the purpose of calculating pensionable service, the individuals should have worked in Government Service in Non-Provincialised Service / Consolidated Pay / Honorarium / Daily Wages in regular service and they should have been absorbed in the regular time scale



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of pay without break in service before 01.04.2003. However, the learned Judge has passed the order impugned herein, merely based on the earlier decisions of this court in WA.No.1292 of 2017 and WA. No.774 of 2020.

5.Today, when the matter was taken up for consideration, the learned counsel for the respondent submitted that without properly examining the claim of the respondent / writ petitioner in the light of the order of the learned Judge, an incompetent authority has passed an order on 28.09.2022, rejecting the same.

6.On the other hand, the learned Additional Advocate General appearing for the appellants submitted that the Deputy Director (Administration) of Government Examinations, Chennai, has inadvertently, passed the aforesaid order dated 28.09.2022 and the appellants are now inclined to rectify the same by passing the order afresh by the competent authority, for which, the learned counsel for the respondent has no serious objection.



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7.Considering the facts and circumstances of the case and as agreed to by both the parties, we direct the competent authority to pass appropriate orders, on merits and as per law, that too, after hearing the parties concerned and also in the light of the order of the learned Judge, which is impugned herein, within a period of four weeks from the date of receipt of a copy of this judgment.

8.The writ appeal is disposed of accordingly. No costs. Consequently, connected C.M.P. is closed.

[R.M.D.,J.] [M.S.Q., J.]
24.08.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation: Yes / No
nsd

To

1.The Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.

2.The Director of Government Examinations,
Directorate of Government Examination,
College Road, Chennai-600 006

3.The Assistant Director,
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