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REV. APLW.(MD) Nos.65, 78, 82 and 84 of 2022
and
CONT P (MD)Nos.923 and 933 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 08.12.2022

PRONOUNCED ON: 12.01.2023

CORAM:

THE HONOURABLE MRS. JUSTICE S.SRIMATHY

REV. APLW.(MD) Nos.65, 78, 82 and 84 of 2022
and
CONT P(MD)Nos.923 and 933 of 2022

REV. APLW.(MD) No.65 of 2022:

1.The Secretary to Government of Tamil Nadu,
Education Department,
Secretariat, Chennai-600 009.

2.The Director of School Education,
D.P.I. Campus, College Road,
Chennai-6.

3.The District Educational Officer,
Devakottai,
Sivagangai District.

Now at,
The District Educational Officer,
Thiruppathur,
Sivagangai District.

... Review Petitioners / Respondents

Page No.1/9



WEB COPY



REV. APLW.(MD) Nos.65, 78, 82 and 84 of 2022
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VS.

R.Tamilvasagan

... Respondent / Writ Petitioner

Review Application is filed under Section 114 and Order 47 Rule 1 of C.P.C. to review as against the aggrieved portion of observation made in Writ Petition(MD) No.23786 of 2016, dated 02.02.2022, by this Court.

In REV. APLW.(MD) Nos.65, 78, 82 and 84 of 2022:

For Petitioners : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.D.Sadiq Raja
Additional Government Pleader
For Respondent : Mr.S.Govindan

In CONT P(MD)Nos.923 and 933 of 2022:

For Petitioner : Mr.S.Govindan
For Contemnors : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.D.Sadiq Raja
Additional Government Pleader

COMMON ORDER

The present Review Application (MD) No.65 of 2022 has been filed seeking review of the order dated 02.02.2022 passed in W.P.(MD) No. 23786 of 2016.

Page No.2/9



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REV. APLW.(MD) Nos.65, 78, 82 and 84 of 2022
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2. The writ petition in W.P.(MD)No.23786 of 2016, was filed to quash the impugned order, dated 17.11.2016 and to direct the respondents to regularize the petitioner's appointments from the initial date of appointment and to consider the period of non-employment from 13.04.2001 to 09.05.2006 as duty period with continuity of service in view of the interim stay.

3. This Court has considered the arguments of the Learned Counsels and has directed to regularize the writ petitioner's service in the light of G.O.Ms.No.76, Education Department, dated 10.06.2014 and also held that the writ petitioner is entitled to 50% of wages for the period from 18.04.2001 to 11.05.2006.

4. This review application is filed to review that portion of the order wherein it has granted backwages to the writ petitioner to the tune of 50%. The Learned Additional Advocate General appearing for the review



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petitioners submitted that during the period from 2001-2006, the respondent in review application / writ petitioner was not in service at all. Hence, under the principles of “no work no pay”, the respondent / writ petitioner is not entitled to any backwages. Moreover, the respondent / writ petitioner has sought backwages for the non-employment period by submitting a representation on 24.10.2016 and that representation is a belated one. Therefore, the learned Additional Advocate General appearing for the review petitioners submitted to review that portion of the order.

5. The claim of the respondent / writ petitioner is that the writ petitioner ought to have been regularized from the period 13.04.2001 to 09.05.2006. The review petitioners did not allow the respondents / writ petitioners to work. If the respondents / writ petitioners were allowed to work, he would have continued his work during the said period and it is not the mistake of the respondents / writ petitioners and prayed to dismiss the review applications.

Page No.4/9



REV. APLW.(MD) Nos.65, 78, 82 and 84 of 2022
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WEB COPY

6. After hearing the rival submissions, this Court has held that it is the fault of the review petitioners / respondents and fixed the responsibility on the review petitioners / respondents. Admittedly, the respondent / writ petitioner had not worked during that period and under the principles of “no work no pay” the respondent / writ petitioner is not entitled to claim salary. But, since it is the fault of the review petitioners / respondents, this Court has fixed only 50% of wages payable during the non-employment period.

7. The learned Counsel appearing for the respondent / writ petitioner submitted that in the similar case, the review petitioners / respondents have granted full wages and the respondent / writ petitioner in all the review applications alone were discriminated by granting 50% of the wages.

8. The learned Additional Advocate General appearing for the review petitioners submitted that subsequently the respondents in all the review applications were taken into service. Since there are serious financial



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*REV. APLW.(MD) Nos.65, 78, 82 and 84 of 2022
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CONT P (MD)Nos.923 and 933 of 2022*

implications to the government's exchequer, the Learned AAG submitted prayed to waive the backwages to the respondents in all the review applications.

9. Considering the rival submissions, since there are serious financial implications to the government, this Court is inclined to review that portion of the order and reduce the backwages to 40%. Therefore, the respondents / writ petitioners are eligible for 40% of the backwages for the non-employment period. Therefore, the review applications are partly allowed.

10. The respondents / writ petitioners had filed contempt petitions alleging non-compliance of the order passed by this Court in the writ petitions. Since the review petitions are filed against the order passed in the writ petitions, this Court has modified the order and partly allowed the review applications, hence contempt petitions would not lie. Hence the



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contempt petitions are closed.

11. The review applications are partly allowed. This review orders shall be implemented within a period of eight weeks from the date of receipt of a copy of this order. The contempt petitions are closed. No costs.

12.01.2023

NCC : Yes / No

Index: Yes / No

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CONT P (MD)Nos.923 and 933 of 2022

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S.SRIMATHY, J.

Tmg

**REV. APLW.(MD) Nos.65, 78, 82 and 84 of 2022
and
CONT P(MD)Nos.923 and 933 of 2022**

12.01.2023

Page No.9/9