



WEB COPY



WP.No.4792 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

CORAM

THE HON'BLE Mr.JUSTICE C.KUMARAPPAN

WP.No.4792 of 2020

and

WMP.No.5664 of 2020

P.Suresh

... Petitioner

- Vs -

1. The Director of School Education
The Educational Directorate
D.P.I.Compound,
College Road, Egmore,
Chennai-600 006.
2. The Director of Matriculation Schools
Directorate of School Education,
D.P.I.Compound,
College Road, Egmore,
Chennai-600 006.
3. The Government of Tamil Nadu,
Rep. by Secretary to Government,
Department of Education,
Fort St. George, Chennai-600 009.

... Respondents

Writ Petition is filed under Article 226 of The Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records comprised in the Proceedings of the 1st Respondent bearing Na.Ka.No.063626/ A5/ E4/ 2019 dated 02.01.2020 and quash the same and



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direct the Respondents to regularize/ absorb/ appoint the Petitioner as a Driver in Grade IV of the Tamil Nadu State and Subordinate Service of the Education Department in the Government of Tamil Nadu with all attendant benefits.

For Petitioner : Mr.T.T.Ravichandran

For Respondents : Mr.M.Muthusamy
Government Advocate for R1 to R3

ORDER

The instant writ petition has been filed challenging the order of rejection of the request for regularization of the petitioner.

2. The learned counsel for the petitioner would submit that, he had completed his School Education in SSLC during March 2002 in the Government High School, Villupuram District, and that before completion of his School education because of the family circumstances, he had to come down to Chennai and worked as a Driver in the School Education Department in the Directorate of School Education, Chennai right from the year 01.04.2001. In spite of his long service of more than 18 years, he has been provided with only the consolidated pay of Rs.14,000/- and that by virtue of G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department dated 28.02.2006, he is



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eligible to be regularized. Whereas, the 1st respondent by way of a cryptic order has rejected the regularization application.

3. Per contra, the learned Government Advocate would invite the attention of this Court about the order of the Hon'ble Supreme Court in ***School Education Deptt., Chennai v. R. Govindaswamy***, reported in (2014) 4 SCC 769 and the Constitution Bench judgment of the Hon'ble Supreme Court in ***State of Karnataka v. Umadevi and 3 others***, reported in (2006) 4 SCC 1 and would submit that the petitioner cannot seek regularization as a matter of right. Even to apply the Government Order in G.O.Ms.No.22, the petitioner was not at all in temporary employment of the Government Department, on the contrary he is an appointee of the Parent-Teachers' Association. Hence, contended that there is no merit in this writ petition.

4. I have given my anxious consideration to either side submissions.

5. The foremost contention raised by the petitioner is that, the order of rejection of the 1st respondent is a cryptic one. However, while harmoniously going through the order, the respondents took cognizance of the facts of the



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case in hand, and on relying upon the **Govindaswamy's** case [cited supra] to the facts of this case, has held that the temporary or *ad hoc* or daily-wage service of long number of years by itself will not make him to become entitled for such regularization. In **Govindaswamy's** case [cited supra], it is further held that sympathy and sentiment cannot be a ground to regularize.

6. At this juncture, the learned counsel for the petitioner would invite the attention of this Court about G.O.Ms.No.22 dated 28.02.2006, wherein, the employees working in all the Government Departments as daily wages, were brought into the regular establishment by way of regularization. But, in contrast, it is the contention of the learned Government Advocate that the petitioner is not the temporary employee of the Government Department, on the other hand, he was an appointee of the Parent Teacher's Association. Even the wage slip filed would vindicate the above contention. As such, even otherwise the petitioner has no locus to invoke the Government Order in G.O.Ms.No.22 dated 28.02.2006 as he was the appointee of the Parent-Teacher's Association.

7. Apart from the above submissions, the learned counsel for the petitioner also relied upon the latest judgment of the Hon'ble Supreme court



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held in *Vinod Kumar and Others etc., Vs. Union of India and Others* reported in *2024 SCC OnLine SC 1533* and would contend that the case in hand will not come within the purview of *Govindaswamy's* case [cited supra] and *Uma Devi's* case [cited supra]. However, while perusing the above precedents, the facts are distinguishable from the facts of the present case.

8. In *Vinod Kumar's* case [cited supra], there was a selection process indicating for a regular recruitment, having a substantive departure from the temporary and scheme-specific nature of their initial engagement. It is in this background, the Hon'ble Supreme Court has ordered for regularization. However, while looking at the present facts of the case, though the petitioner had served for more than 19 years, there are no ground to invoke the G.O.Ms.No.22 dated 28.02.2006 as he was under the roll of the Government Department. Even otherwise, his mere long service will in no way entail him to be regularised as he has no fundamental right to seek for regularization by preferring writ petition. Thus, this Court does not find any merit in this writ petition.



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9. In the result, this writ petition stands dismissed. No costs.

Consequently, connected WMP is also closed.

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Index : Yes/No

Speaking/Non Speaking Order

NCC : Yes/No

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