



W.A.No.1296 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.No.1296 of 2022 and
C.M.P.No.8175 of 2022

1. The State of Tamil Nadu,
Rep. by its Secretary to School,
Education Department,
Secretariat, Fort St.George,
Chennai.
2. The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
3. The Chief Educational Officer,
Tiruppur District, Tiruppur.
4. The District Educational Officer,
Udumalpet, Udumalpet-642 126.
5. The Head Master,
Government Boys Higher Secondary School,
Udumalpet, Tiruppur District,
Pincode-642 126.

... Appellants/Respondents

-VS-

V.Shanthi

... Respondent/Petitioner



W.A.No.1200 of 2019

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 20.11.2019 made in W.P.No.32259 of 2019 and allow this Writ Appeal.

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For Appellants : Mr.J.C.Durairaj
Addl. Govt. Pleader

For Respondent : No Appearance

J U D G M E N T

(By D.Krishnakumar,J.,)

This Writ Appeal has been filed, challenging the order of the learned Single Judge dated 20.11.2019 passed in W.P.No.32259 of 2019, by which the Writ Petition filed by the Writ Petitioner/respondent herein was allowed with a direction to the respondents therein to issue re-employment orders to the respondent herein till the end of academic year is over.

2. Despite issuance of notice to the respondent and her name printed in the cause list, there is no representation on behalf of the respondent.

3. When matter is taken up for hearing, learned Additional Government Pleader for the Appellants submitted that the respondent, who was declared to be a Surplus Teacher, had attained the age of superannuation in the middle of the academic year. He further submitted that when the similar issue came before this Court in



W.A.No.107 of 2020

W.A.Nos.259 of 2021, etc. batch, decided on 10.12.2021, wherein it was held as follows:

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“23.The Coordinate Bench of this Court in W.A.No.107 of 2020 dated 16.03.2021 has categorically held that G.O(Ms).No.261, School Education Department, dated 20.12.2018, the Government has taken a policy decision to the effect that the teachers who attained superannuation during the middle of the academic year, will not be entitled to reemployment, when there are surplus teachers. The Coordinate Bench has further held that the re-employment is not a matter of right and once the teacher attains the age of superannuation, the relationship between master and servant ceases. The Coordinate Bench has further held that the re-employment is a fresh employment and when a permission is sought to re-employ a Government teacher or a teacher of an aided institution, conditions will always be attached. We are in respectful agreement with the findings of the Coordinate Bench.

24.In view of the above discussions, the order of the learned Single Judge needs interference and we set aside the order of the learned Single Judge. Accordingly, the writ petitions are dismissed and the Writ Appeals are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.”

4. By relying on the aforesaid judgment, it was pleaded by the Appellants that the Respondents herein is not entitled to any relief and the order of the learned Single Judge is liable to be set aside.

5. In view of the above authoritative pronouncement of the Division Bench of this Court, we are of the view that the judgment rendered by the Coordinate Bench of this Court is squarely applicable to the facts of this Court and the order passed by the learned Single Judge warrants interference by this Court.



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6. Accordingly, this Writ Appeal is allowed and the order 20.11.2019 passed by the learned Single Judge in W.P.No.32259 of 2019 is hereby set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K., J.] [K.B., J]
16.07.2024

Index: Yes / No
Internet: Yes / No
Speaking Order/Non Speaking Order
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