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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

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THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.19279 of 2021
and WMP.Nos.20585 and 20586 of 2021

1.R.Murugan
2.C.Arul Raj
3.P.Venkatraman
4.K.Jaisankar
5.G.Ranjini
6.C.Sridaran
7.G.Surendran
8.D.Thirunavukkarasu
9.D.Sundaramoorthy

... Petitioners

Vs

1.The Commissioner,
Directorate of Technical Education (DOTE),
Guindy, Chennai – 25.
2.The Assistant Director of Technical Education (Admin),
Directorate of Technical Education,
Guindy, Chennai – 25.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, calling for the records of the impugned communication bearing No.103593/D5/2012, dated 27.07.2021 passed by the 2nd respondent and quash the same and consequently direct the respondents to absorb all the petitioners into regular service in their department.



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For Petitioner : Mr.P.T.Perumal

For Respondents : Mr.R.Kumaravel
Additional Government Pleader

ORDER

Though this writ petition has been filed challenging the impugned proceedings bearing No.103593/D5/2012, dated 27.07.2021, whereby the claim of the petitioners for regularization was denied on the ground that the petitioners are not covered by the scheme for regularization provided under Section G.O.Ms.No.22 P & AR (F) for want of completion of ten years of service as on 01.01.2006, when the matter is taken up for consideration, the learned counsel for the petitioners fairly submitted that though the petitioners have completed ten years of service, they are not eligible to be regularized under the scheme of regularization provided under G.O.Ms.No.22 P & AR (F), but all the petitioners herein working against the sanctioned post discharging their duties as regular employees and therefore, the petitioners are entitled for payment of equal pay on par with regular employees. But the respondents have been paying only consolidated pay to the petitioners. In this regard, he also relied on the decision of Hon'ble Apex Court reported in *(2017) 1 SCC*



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148 in State of Punjab and others Vs. Jagjit Singh and others. The said decision of the Hon'ble Apex Court held in paragraph No.60, which reads as follows:

Having traversed the legal parameters with reference to the application of the principle of 'equal pay for equal work', in relation to temporary employees (daily-wage employees, ad-hoc appointees, employees appointed on casual basis, contractual employees and the like), the sole factor that requires our determination is, whether the concerned employees (before this Court), were rendering similar duties and responsibilities, as were being discharged by regular employees, holding the same/corresponding posts. This exercise would require the application of the parameters of the principle of 'equal pay for equal work' summarized by us in paragraph 42 above. However, insofar as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals, were appointed against posts which were also available in the regular cadre/establishment. It was also accepted, that during the course of their employment, the concerned temporary employees were being randomly deputed to discharge duties and responsibilities, which at some point in time, were assigned to regular employees. Likewise, regular employees holding



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substantive posts, were also posted to discharge the same work, which was assigned to temporary employees, from time to time. There is, therefore, no room for any doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals, were the same as were being discharged by regular employees. It is not the case of the appellants, that the respondent-employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State, that any of the temporary employees would not be entitled to pay parity, on any of the principles summarized by us in paragraph 42 hereinabove. There can be no doubt, that the principle of 'equal pay for equal work' would be applicable to all the concerned temporary employees, so as to vest in them the right to claim wages, at par with the minimum of the pay-scale of regularly engaged Government employees, holding the same post.

2. The learned counsel for the petitioners also placed reliance on another decision of the Hon'ble Supreme Court in the case reported in **(2019) 12 SCC 297 in Sabha Shanker Dube Vs. Divisional Forest Officer and other**, wherein, the Hon'ble Apex Court held as under:

In view of the judgment in [Jagjit Singh](#) (supra), we are unable to uphold the view of the High Court that the Appellants-herein are not entitled to be paid the minimum of the pay sales. We are not



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*called upon to adjudicate on the rights of the Appellants relating to the regularization of their services. We are concerned only with the principle **laid down by** this Court initially in **Putti Lal** (supra) relating to persons who are similarly situated to the Appellants and later affirmed in **Jagjit Singh** (supra) that temporary employees are entitled to minimum of the pay scales as long as they continue in service.*

3. No doubt, the Hon'ble Apex Court has laid down the guidelines in the matter of parity of pay to the temporary employees who are working in consolidated pay etc., against the sanctioned post.

4. It is also brought to the notice of this Court that the petitioners herein have already submitted a representation dated 26.06.2024 for payment of equal pay/minimum scale of pay attached to the post held by the petitioners and said representation is pending for consideration with the respondents.

5. In the light of the above, this Court is of the considered view that in case the petitioners are working on par with regular employees against sanctioned posts, this matter has to be considered by the respondents, at the



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first instance. The examination of such aspect also requires several factual matrix.

6. In the light of the above, this writ petition is disposed of directing the respondents to consider the representation dated 26.06.2024 said to have been submitted by the petitioners, in the light of the law laid down by the Hon'ble Apex Court and to pass appropriate orders as expeditiously as possible at any rate within a period of three months from the date of receipt of a copy of this order. The petitioners are also granted liberty to submit any further representation within a period of three weeks from the date of receipt of a copy of this order. However, the claim for regularization may be pursued by the petitioner, if they are covered by any scheme for policy of the State in accordance with law. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

03.07.2024

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

1.The Commissioner,
Directorate of Technical Education (DOTE),
Guindy, Chennai – 25.

2.The Assistant Director of Technical Education (Admin),
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MUMMINENI SUDHEER KUMAR, J.,

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