



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.08.2024

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**
and
THE HONOURABLE **MR. JUSTICE G.ARUL MURUGAN**

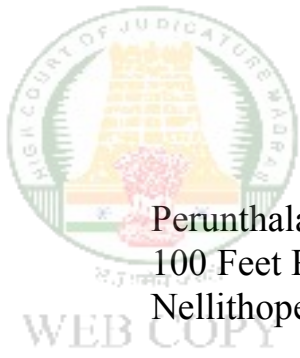
W.P.No.24401 of 2024
& WMP.Nos.26672, 26673 and 26674 of 2024

- 1.Danalatchoumy
- 2.M.Buvaneswary
- 3.A.Arul Boopathy
- 4.S.Sathiyaraj
- 5.E.Vijayakumar
- 6.Selvi
- 7.Parameshwari

... Petitioners

Vs

- 1.The Union Territory of Puducherry,
Rep. by Chief Secretary-cum-The Chairman,
Sarva Shikhsa Abhiyan,
Government of Puducherry,
Chief Secretariat,
Puducherry-605 005.
- 2.The Union Territory of Puducherry
Rep. by Chief Secretary,
Education Department,
Government of Puducherry,
Chief Secretariat,
Puducherry-605 005.
- 3.The Director of Education Department,
Government of Puducherry,



Perunthalaivar Kamaraj Centenary Education Complex,
100 Feet Road, Anna Nagar,
Nellithope, Puducherry-605 005.

4.The State Project Director,
State Project Office,
Sarva Shiksha Abhiyan,
Education Department,
Perunthalaivar Kamaraj Centenary Education Complex,
100 Feet Road, Anna Nagar,
Nellithope,
Puducherry-605 005.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed in O.A.No.310/00318/2018, dated 07.11.2023 on the file of Central Administrative Tribunal, Madras Bench in conforming the impugned order passed by 4th respondent dated 30.12.2016 made in proceedings No.2604/SSA/Court Case/2016 to quash the same and consequently direct the respondents to provide appointment to the petitioners under the respondents, treat the period from 30.12.2016 till date of order as having been in service with all attendant benefits and continuity of service.

For Petitioners : Mr.C.Prabakaran

For Respondents : Mr.Syed Mustafa
Special Government Pleader (P)

ORDER

(Order of the Court was made by Dr.ANITA SUMANTH,J.)

WMP No.26672 of 2024 filed seeking permission to file a single Writ
Petition is ordered on payment of separate Court fee.



2. The petitioners challenge the order of the Central Administrative Tribunal (in short 'CAT') dated 07.11.2023. The Government of Puducherry had formulated a scheme by the name of Sarva Shiksha Abhiyan (SSA) for engagement of Computer Lab Coordinators under the State Project Director, Directorate of School Education, Government of Puducherry.

3. Admittedly, all petitioners had been engaged in that post from 2005-06 onwards in different Government Schools in Puducherry, Karaikal, Mahe and Yanam regions. Their services are not in dispute. All petitioners had been disengaged from service from the year 2012 onwards. The reason for this is that, according to the respondents, there had been no allocation of funds from the year 2013 onwards by the Project Approval Board and hence their disengagement is on account of paucity of funds and perhaps in their interests, as their continued services would have been without any remuneration.

4. The petitioners had filed original applications before the CAT and were unsuccessful. That applications had been filed on an apprehension of their disengagement. While so, the termination of their services had come to be and hence the present applications had come to be filed before the CAT.

5. In the earlier round of litigation, while closing the matter on 24.09.2012, the Tribunal considered the aspect of whether the services of the



petitioners could be regularised. The conclusions of the Tribunal are as follows:

.....
5. *The trite proposition of law is that the applicants who are claiming to be working under the Sarva Siksha Abiyan Scheme, cannot seek for Regularization because there are no permanent posts in the said scheme and there are no Recruitment Rules also. However, the applicants, who have put in more than, as claimed by them, ten years of service under the Sarva Siksha Abiyan if they apply along with other candidates in response to any employment notification for suitable posts or similar posts in the Puducherry Administration, then Puducherry Administration, as put forth by the learned counsel for the respondents, would consider it on merits. Regarding their age relaxation is concerned, it is for the applicants to apply for the same and that would be considered as per the governing rules.*

6. *The learned counsel for the applicant, placing reliance on the G.O.Ms.No.82 dated 04.09.2012 would insist that 44 teaching staff working in Sarva Siksha Abiyan were regularized and they were still working in the Union Territory of Puducherry occupying regular posts, for which the learned counsel for the respondents would submit that that was a one time measure In view of the various litigations and that they were regularized and that too they participated along with other recruits in the regular selection process and they were given such regularization, and that age relaxation was also given for some of the candidates. Hence, at this stage, we would like to fumigate our mind with the well settled proposition of law if a regular post is vacant then certainly Government is enjoined to announce it and make effective publication so as to enable the eligible candidates to apply for the same and straight away no regular posts could be filled up without adhering to the procedures contemplated under the Recruitment Rules. As such, we are having no hesitation in holding that the applicants are entitled to apply along with others for similar posts or any posts in the education department whereupon they are also given liberty to apply for age relaxation and all those applications have to be considered by the*



appropriate authority as per law.

8. Regarding the apprehension raised by the learned counsel for the applicant that the respondents might disengage the applicants and engage freshers on contract basis or on outsourcing basis, we would point out that as correctly pointed out by the learned counsel for the applicant that as per the decision of Hon'ble Apex court in the case of *State of Haryana vs Piara Singh*, (1992) 4 SCC 118 and more specially Para 46 which is extracted hereunder:

"Secondly, an adhoc or temporary employee should not be replaced by another adhoc. or temporary employee; he must be replaced only by a regularly selected employee. This is necessary to avoid arbitrary action on the part of the appointing authority"

the respondents cannot do so. With these observations, the OAs are disposed of. With regard to the grievance of the applicant that for the -services rendered by the applicants, pay was not paid for certain period, we would like to point out that is a trite proposition that for the work performed by the applicants, necessarily, the respondent should pay for that, within a period of one month from the date of receipt of a copy of this order. The ratiocination adhered to above is applicable to dispose of the OA No.156/2013 also.

9. The OAs are disposed of accordingly. Consequently, MA Nos. 724-726/2013 filed for vacating the stay, are also closed."

6. That order of the CAT has become final. While so, the actual termination of the services took place on 30.12.2016. Admittedly, all arrears of pay were settled as on that date. Pending the present applications before the CAT, there has also been integration of three centrally sponsored education schemes, being SSA, Rashtriya Madhyamik Shiksha Abhiyan



(RMSA) and Teacher Education (TE), into an integrated scheme for school education being Samagra Shiksha Scheme.

7. The Samagra Shiksha Scheme (in short '(SS Scheme)') is projected as an overarching programme that commenced from the year 2018-19, encompassing classes from pre-school to class 12, implemented with the goal of improved effectiveness measured in terms of equal opportunities for schooling, and equitable learning schemes in all the States/ Union Territories.

8. There is no question in our minds that this SS Scheme is a beneficial scheme that is meant to provide wholistic education and hence the question of intervention in this regard, is not a matter of consideration. As far as the petitioners are concerned, the continuation of their engagement could have considered in terms of the SS Scheme, as the qualifications required under that Scheme seem identical to what the petitioners claim to possess.

9. While this may be so, the engagement or otherwise of the services of the petitioners in the SS Scheme is a question that ought to have been dealt with by the authorities taking note of various factors, inter alia the directions under the Scheme itself.

10. The prayer of the petitioners in the present round of litigation before the CAT arising from O.A.No.318 of 2013 was by way of challenge to the recruitment Notification dated 30.12.2016 by the State Project Director



under the SS Scheme. In effect the aforesaid recruitment notification had rejected their representations wherein they had sought regularisation and continuity of service.

11. Mr.Syed Mustafa, who appears for the respondents would add to the factual matrix of the matter pointing out that pending the earlier Original Applications, where the petitioners have been granted interim orders of protection, their services had been continued till 2016 and all arrears of pay have been disbursed to them. It is only on 30.12.2016 that a detailed order of rejection of their request seeking regularisation and continuation of service under SS Scheme had been passed, adverse to them.

12. In our considered view, having taken note of the terms, scope and ambit of the Scheme, that prayer has been rightly rejected, seeing as the continuation/regularisation of their services would depend on the terms of the Scheme itself, and subject to the petitioners satisfying the eligibility criteria in that Notification.

13. In light of our discussion as above, we have no hesitation in confirming the aforesaid order of the CAT. It would suffice to state that if at all the petitioners are entitled for appointment under the SS Scheme, they are at liberty to make applications as and when there is a call for recruitment and their applications would be considered, in accordance with law and having



regard to the terms of the Notification to be issued.

14. Learned counsel for the petitioners would pray that their past services must be counted advantageously in effecting consideration of applications, if any, to be filed by them. We are unable to accede to this request. At best their past services may be indicated in their application, and it is for the authorities to either be persuaded or otherwise by the same.

15. This Writ Petition is dismissed. No costs. Connected Miscellaneous Petitions are also dismissed.

(A.S.M.,J) (G.A.M.,J)
27.08.2024

Index:Yes
Speaking order
Neutral Citation: Yes
sl

To

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Rep. by Chief Secretary-cum-The Chairman,
Sarva Shikhsa Abhiyan,
Government of Puducherry,
Chief Secretariat,
Puducherry-605 005.

2.The Union Territory of Puducherry
Rep. by Chief Secretary,
Education Department,
Government of Puducherry,
Chief Secretariat,



W.P.No.24401 of 2024

Puducherry-605 005.

3.The Director of Education Department,
Government of Puducherry,
Perunthalaivar Kamaraj Centenary Education Complex,
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