



W.A.No.960 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

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1. The State of Tamil Nadu
Rep. by its Secretary
Department of School Education
Fort St. George, Chennai – 600 009.
 2. The Director of School Education
DPI Campus, College Road
Chennai – 600 006.
- .. Appellants

Vs.

1. S.Rajeshkanna
 2. K.Sreenivasan
 3. M.Anandan
 4. R.Sudha
- .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 27.11.2019 in W.P.No.27923 of 2019.

For the Appellants : Mr.U.M.Ravichandran
Special Government Pleader

For the Respondents : No Appearance



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JUDGMENT

(Delivered by the Hon'ble Mr. Justice S.M.SUBRAMANIAM)

The initial appointments of the respondents were made on contract basis and consolidated pay salary was fixed. Admittedly, the services of the respondents were regularized in the sanctioned post of Secondary Grade Teacher with effect from 01.06.2006. Therefore, the respondents are entitled to avail the service benefits with effect from 01.06.2006, the date on which their services were regularized in the sanctioned post in the time scale of pay.

2. The learned Single Judge, extracting the order passed in W.P.No.4991 of 2015 dated 30.07.2019 in the case of ***T.Kunju Krishnan and Ors. vs. Government of Tamil Nadu, Rep. by its Secretary and Ors.***, allowed the impugned writ petition and challenging the same, the present writ appeal has been preferred by the State.



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3. Mr.U.M.Ravichandran, learned Special Government Pleader would submit that the issues raised in the present writ appeal are no more *res integra*. The Division Bench of this Court considered the entire issue elaborately in Review Petition No.60 of 2020, recalling the order dated 13.01.2020 passed in the writ appeal, and held that the writ petition allowed relying on the order dated 30.07.2019 in W.P.No.4991 of 2015 cannot be given effect to in view of the order passed in the review petition. The relevant paragraphs of the judgment made in the said review petition are extracted hereunder for ready reference:

" ...

27. The initial appointments of the writ petitioners were based on Government Orders that were issued to fill up the vacancies in various categories of teachers on consolidated pay during the ban on recruitment was force in the State. They had discharged their duties as Junior Grade Employees. After they were absorbed into service on 01.06.2006 inclusion of their names in the seniority list would only deprive the promotees



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(Review Petitioners and other similarly placed teachers) the legitimate seniority to which they are entitled to.

28. It is settled law that seniority of a person has to be counted from the date of his initial appointment, if he was appointed in a regular post, selection to which is by way of regular mode of recruitment. Therefore, the corollary is, where the initial appointment is not according to rules, i.e., ad hoc, as a stopgap arrangement, the discharge of duty in such post cannot be taken into account for determining seniority.

...

34. It is also brought to the notice of this Court that in view of the pendency of the writ petitions, writ appeals and the review application, the promotion panel, which was drawn on 16.11.2019 is kept pending without any progress.

35. The First Bench, also had passed a reasoned order on 01.09.2020 to admit the review application. In view of the discussions made hereinabove, the Review Petition No.60 of 2020



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and W.A.No.723 of 2020 filed by the third parties, whose rights are affected by the said order, are allowed and consequently, the order dated 13.01.2020 passed in W.A.No.3904 of 2019 is recalled. As a natural corollary, the order passed by the writ Court dated 30.07.2019 in W.P.No.4991 of 2015 is set aside and the writ petition is dismissed.

36. In view of the orders passed by us in the instant review petition, the writ appeals filed by the Government in W.A.Nos.245, 246 and 462 of 2020 are also allowed and the respective orders passed by the learned Single Judge, which were impugned therein, are also set aside and those writ petitions are dismissed.

37. It is also made clear that any order passed by this Court placing reliance on the judgment dated 13.01.2020 in W.A.No.3904 of 2019 and the order dated 30.07.2019 in W.P.No.4991 of 2015 cannot be given effect to, in view of the order passed in the review petition recalling the order dated 13.01.2020."



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4. Since the writ appeal order has been recalled and the review petition filed by the State has been allowed, the present writ appeal is also to be considered on the same lines. Accordingly, the impugned order passed in W.P.No.27923 of 2019 dated 27.11.2019 is set aside. The writ appeal, as such, stands allowed. There shall be no order as to costs. Consequently, C.M.P.No.5891 of 2021 is closed.

(S.M.S., J.)

(C.K., J.)

24.06.2024

Index : Yes/No

Neutral Citation : Yes/No

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S.M.SUBRAMANIAM, J.

AND

C.KUMARAPPAN, J.

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