



WP(MD) No.8179 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.04.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.8179 of 2024

and

W.M.P(MD)No.7384 of 2024

1.M.P.Bindu Saraswathy

2.Gopika

3.Mathav

... Petitioners

Vs.

1.The State of Tamilnadu

Rep by its Secretary,

Department of School Education,

Fort St.George,

Chennai -600 009.

2.The Director of School Education,

College Road,

Chennai - 600 009.



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3.The Joint Director

Vocational Education,
Department of School Education
College Road,
Chennai -600 006.

4.The Chief Educational Officer

Kanniyakumari,
Kanniyakumari District.

5.The District Educational Officer,

Marthandam,
Kanniyakumari District.

6.The Headmaster

Government Higher Secondary School,
Munchirai,
Puthukadai,
Kanniyakumari - District -629 171.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution
of India for issuance of Writ of Certiorarified Mandamus



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challenging the impugned order issued by the 2nd respondent Director of School Education in Na.Ka.No.6080/V1/E1/2020 dated 23.09.2020, quash the same and further Direct the respondents herein to regularize the service of the petitioners husband a vocational Instructor Grade -I from the date of initial appointment i.e., 17.07.1995 and to sanction and disburse all the service monetary and all attendant benefits with effect from the date of his initial appointment i.e., 17.07.1995 as per the order passed by this Honourable Court at Principal seat in Review Application No.276 of 2014 dated 09.10.2015.

For Petitioners : Mr.T.Cibi Chakraborty

For Respondents : Mr.M.Siddharthan,
Additional Government Pleader

ORDER

The petitioners have filed this Writ Petition challenging the impugned order passed by the second respondent in Na.Ka.No. 6080/V1/E1/2020 dated 23.09.2020.



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2. Mr.T.Cibi Chakravarthy, learned counsel for the petitioners submits that the petitioners are the wife and children of one deceased Suresh Indira Kumar, who was working as Vocational Instructor in the sixth respondent school. Earlier, Suresh Indira Kumar and similar other petitioners have filed W.P.No.18183 of 2023 seeking the relief of regularization. In the said writ petition, the following orders have been passed:

“6. Among the 52 persons referred to in the letter dated 11.04.2011 of the Director of School Education, two persons approached this Court by filing writ petitions in W.P.Nos.6821 and 6822 of 2011 seeking identical prayer as made in this writ petition. Those writ petitions were allowed by a Single Judge of this Court by a common order dated 31.03.2011. Thereafter, the respondents filed appeals in W.A.Nos.158 and 159 of 2012 and the Writ Appeals were dismissed by a Division Bench of this Court by judgment dated 07.02.2012 confirming the common order passed in W.P.Nos.6821 and 6822 of 2011 dated 31.03.2011. In view of the aforesaid facts and also taking into account the fact that hundreds of persons



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like that of the petitioners were sent for training and they were also regularized, the Writ Petition is disposed of and a direction is issued to the respondents to send the petitioners for short term training course to the concerned DIET, within a period of three months from the date of receipt of a copy of this order and thereafter, to regularise their services in terms of G.O.Ms.No.834, Education Department, dated 23.09.1994 and G.O.Ms.No.358, School Education Department, dated 18.08.1997 as referred to above. No costs. Consequently, connected Miscellaneous Petition is also closed.”

3. However, the Government has filed Review Application in Rev.Appl.No.276 of 2014. In Rev.Appl.No.276 of 2014, orders have been passed on 09.10.2015 by modifying the earlier order to the effect that those petitioners, who have joined the service before 20.09.1996, are entitled to be regularized as per G.O.Ms.No.35, School Education (V.E.) Department, dated 09.02.2007 and they need not undergo any training. But however in



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the impugned proceedings, the first petitioner's husband was also included in the list of persons, who have to undergo the training.

4. Mr.T.Cibi Chakraborty further submitted that the order passed in the earlier writ petition has not been properly understood by the respondents and the first petitioner's husband's name has been wrongly included in the impugned order to undergo the training despite he is entitled to be regularized from 17.07.1995 in terms of G.O.Ms.No.35, School Education (V.E.) Department, dated 09.02.2007. In fact, in compliance of the order to depute the first petitioner's husband to undergo training, he had also undergone the training and completed the same. Instead of considering his regularization from the date of appointment by giving the impact of G.O.Ms.No.35, School Education (V.E.) Department, dated 09.02.2007 in his favour, the regularization order has been issued by blindly relying on the order deputing the first petitioner's husband and others for training and he was regularized from the



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date of completion of the training from 03.12.2019, which is the order of regularization passed on completion of training.

5. The first petitioner's husband could have challenged the very order, which compelled him to undergo training in the light of the earlier order passed in Rev.Aplc.No.276 of 2014. But the first petitioner's husband had politely undergone the training in order to avoid any further complications. However, he lost to get his regularization from the date of his entitlement, i.e from the date of his appointment.

6. The first petitioner's husband, Suresh Indira Kumar, died on 27.07.2021. Hence, the petitioners have filed this petition seeking an order to quash the order passed by the second respondent in Na.Ka.No.6080/V1/E1/2020 dated 23.09.2020 in respect of the date of regularization alone and consequential direction to the first respondent to regularize the services of the first



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petitioner's husband from 17.07.1995, which is the date of his appointment. The first petitioner's husband's entitlement has already been settled. The order passed in the earlier writ petition and the subsequent modification order passed in Rev.Aplc.No.276 of 2014 attained finality, as the appeals filed by the Government got dismissed. Hence, the first petitioner's husband ought to have got his regularization from the date of his appointment and not from the date mentioned in the impugned order.

7. Mr.M.Siddharthan, learned Additional Government Pleader submitted that the first petitioner's husband Suresh Indira Kumar himself did not challenge the order of regularization, while he was alive and hence, the first petitioner's husband had acquiesced to the date of regularization from which his service has been regularized.

8. The one and only omission that was done by the first



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petitioner's husband is not objecting the order issued for directing him to undergo training. No doubt, the first petitioner's husband is one among 25 persons who has got the benefit of the order passed in the review petition and more particularly, he falls under Writ Petitioners 1 to 13 who did not have the necessity to undergo training. Just because a wrong order has been passed by the respondent as though the first petitioner's husband is a person falling under one among 14 to 25, the respondents cannot perpetuate the mistake by regularizing the service of the first petitioner's husband from the date on which he completed the unnecessary training and thereby, defeating the whole object and purpose of the earlier order made in Rev.Aplc.No.276 of 2014 dated 09.10.2015.

9. It is not the contention of the respondents that the order passed in Rev.Aplc.No.276 of 2014 was set aside or the matter in the issue in any subsequent proceedings. In fact, the order



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made in Rev.Aplc.No.276 of 2014 had attained the finality in view of the subsequent filing of S.L.P.(Civil) Diary No.37734 of 2018 dated 04.02.2019, which was dismissed. While so, it is unfair on the part of the respondents to exclude the first petitioner's husband from the operation of the favourable orders passed in Review Application No.276 of 2014. Allowing the respondents to do so would amount to revoking the order passed in Rev.Aplc.No.276 of 2014, despite the SLP filed by the respondent itself has been dismissed on 04.02.2019. So, the respondent cannot claim that an illegal order passed for directing the first petitioner's husband to undergo training should be culminated into an order of regularization to be given effect to from the date of completion of the training.

10. The failure on the part of the first petitioner's husband to challenge the illegal order sending him to training, will not deprive him from getting the benefit of the orders already



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obtained by him in his favour in Rev.Aplc.No.276 of 2014. So, the respondents cannot repeatedly claim that the first petitioner's husband did not challenge the order of regularization. The petitioners, who are the legal heirs of the deceased Suresh Indira Kumar, are entitled to get the terminal benefits of Suresh Indira Kumar and if the terminal benefits due to Suresh Indira Kumar are affected due to wrong invocation of date of regularization as against the first petitioner's husband, they are entitled to challenge the same.

11. Since the service of the first petitioner's husband ought to have been regularized w.e.f., 17.07.1995 which is the date of his appointment, the petitioners are entitled to all the service benefits due to deceased Suresh Indira kumar by deeming his services regularized with effect from the said date on par with the petitioners 1 to 12 in W.P.No.18183 of 2013 in whose favour also the regularization has been effected from the respective date of their



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appointment.

12. In view of the above said reasons, the respondents 1 and 2 are directed to pass orders afresh by regularizing the service of the first petitioner's husband with effect from the date of his appointment and consequently, disburse the terminal benefits, monetary and service benefits as applicable to his date of appointment within a period of eight weeks from the date of receipt of a copy of this order.

13. With the above directions, the Writ Petition is **disposed of**. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM

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To

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State of Tamilnadu
Department of School Education,
Fort St.George,
Chennai -600 009.
- 2.The Director of School Education,
College Road,
Chennai - 600 009.
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R.N.MANJULA, J.

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