



W.A. (MD) No.1682 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 05.01.2024

PRONOUNCED ON : 24.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.A(MD).No.1682 of 2018
and CMP(MD).Nos.12325 of 2018

- 1.S.Muruganandham
- 2.M.Rajan
- 3.Y.Mallika
- 4.G.Sheba
- 5.A.Gunaseelan
- 6.E.S.Thirumalaikumar
- 7.L.Nadimuthu
- 8.G.Subramanian
- 9.P.Surulinathan
- 10.T.Nagajothi
- 11.P.Malarvizhi
- 12.S.Angeline Rachel Lelly Pushpam



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13.S.Prema

14.S.Gowtham

15.P.Ramamoorthy

16.G.Ruckmani Jeya

17.G.P.Chinna Veeran

18.G.Prabu

19.L.Rajendran

20.P.Murugan

21.K.Marimuthu

22.A.Chandrasekar

23. D.Sheela

24.N.Parameswari

...Appellants/Petitioners

Vs

1.The State of Tamil Nadu
Represented by its Secretary to Government
School Education Department
Secretariat
Chennai 600 009

2.The Director
Directorate of Teachers Education
Research and Training
Chennai -6

2/12



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3.The Director of School Education
DPI Complex, College Road
Chennai 600 006

...Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 15.02.2017 made in WP(MD).No.12011 of 2012 on the file of this Court and allow the above writ appeal.

For Appellants : Mr.F.Deepak

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

J U D G M E N T

(Made by **R.VIJAYAKUMAR,J.**)

The petitioners in W.P(MD).No.12011 of 2012 are the appellants herein. The said writ petition was filed challenging an order passed by the first respondent herein wherein the request of the petitioners for grant of regularization from the date of their initial appointment was rejected.

2.The facts leading to the filing of the writ appeal are as follows:

(i)A Recruitment Notification was issued by Teachers Recruitment Board (TRB), Chennai on 27.11.2011 for filling up 403 vacancies of Junior Lecturers in the time scale of pay of Rs.5500-175-9000 on contract basis for a period of



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two years. The petitioners and others were appointed in various District Institute of Education and Training (DIET). All the petitioners were terminated on 29.02.2004.

(ii) The Government of Tamil Nadu issued a letter dated 20.07.2004 to create 408 B.Ed., qualified teacher posts in the Government High Schools from and out of the Junior Lecturers who had been employed in the District Institute of Education and Training (DIET) and terminated from service on 29.02.2004 by conducting a Special Test by Teacher Recruitment Board. The petitioners were successful in the Special Test and by an order dated 30.11.2004 they were temporarily appointed as Junior Graduate Teachers in Government High Schools on a consolidated pay for a period of five years. After 18 months of services, all of them were brought under regular appointment as Junior Graduate Teachers from 01.06.2006 in the time scale of pay of Rs.5500-175-9000 with usual allowances by an order dated 14.08.2006.

(iii) On 29.02.2004, the Teachers Recruitment Board has issued a Notification for selection of another batch of Junior Lecturers carrying the time scale of pay of Rs.5500-175-9000 and 40 Junior Lecturers were appointed at District Institute of Education and Training (DIET) in August 2004 for a period of two years. Though their duration of appointment was two years, there were



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not terminated, but they have been continued in service in the regular time scale of pay by an order dated 31.08.2006 and later they were regularly appointed in the same time scale of pay.

(iv) In view of the above said facts, the petitioners have alleged the discrimination between the Junior Lecturers who were selected pursuant to the notification dated 27.11.2001 and notification dated 29.02.2004.

(v) According to the petitioners, they had worked for two years and they were not able to receive annual increment and no Service Register were opened for the petitioners. Despite their services being required by DIET, they were terminated from service on 29.02.2004 and fresh notification was issued for appointment of another set of Junior Lecturers. However, the second batch of the Lecturers were brought into regular employment. If a similar benefit has been conferred upon them, they would have continued as Junior Lecturers with a higher pay scale.

(vi) Ventilating the above said grievance, the petitioners have sent representations on 25.09.2006 and 16.10.2006 requesting the respondents to treat the date of joining of initial appointment in DIET as the date of first appointment in Government Service and to count the same for qualifying service. The petitioners have further prayed for granting time scale of pay,

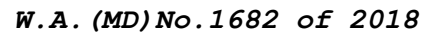


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declaration of completion of probation, grant of annual increment, opening of Service Register from the date of their initial appointment. The petitioners have further prayed for treating the non-employment period as duty period.

(vii) Since the said request was not considered, the petitioners had filed W.P(MD).No.3052 of 2011. This Court by an order dated 16.03.2011 directed the authorities to dispose of the representation within a period of two weeks from the date of receipt of a copy of the order. In compliance with the order of this Court, the order impugned in the writ petition was passed on 28.06.2012 rejecting the representation of the writ petitioners. Challenging the same, the present writ petition came to be filed.

(viii) The writ Court after considering the case of the first batch and second batch of Junior Lecturers joined in DIET, came to a conclusion that in both cases, the actual absorption on permanent basis had been given or done only from the date of reappointment alone and not from the original date of engagement. Hence, the writ Court was of the view that there is no discrimination between both the batch of Junior Lecturers and proceeded to dismiss the writ petition. Challenging the same, the present writ appeal has been filed.



(i) The learned counsel appearing for the writ petitioners had contended that the services rendered by the petitioners in DIET have not been taken into consideration and they have lost around three years of their services. He had further contended that the second batch of Junior Lecturers joined in DIET on a regular condition have been regularised without any Special Test. The same principle should have been followed in the case of the writ petitioners.

(ii) He had further contended that now the petitioners' services have been regularised only with effect from 01.06.2006 though their date of initial appointment is in March/April 2002. Hence, he prayed for allowing the writ appeal.

4. Per contra, the learned Additional Government Pleader appearing for the respondents had contended that the only ground on which the writ petition came to be filed is that the Government had discriminated between the Junior Lecturers appointed in the year 2001 and 2004. However, the writ Court was pleased to arrive at a finding that there is no discrimination between the two set of teachers. Therefore, there are no merits in the writ petition.

5. We have carefully considered the submissions made on either side and perused the material records.



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Discussion:

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6.The petitioners were appointed as Junior Lecturers in DIET and the Government Teachers Training Institutes on contract basis for a period of two years from March/April 2002. Even as per the notification, their appointment is only on a contract basis. After completion of the contract period, all the petitioners were terminated on 29.02.2004. The petitioners have not chosen to challenge the order of termination.

7.Taking a sympathetic view on the terminated Junior Lecturers, the Government has issued an Order to conduct a Special Test for regularizing the terminated Junior Lecturers as Junior Graduate Teachers in the Schools. Accordingly, the petitioners have been selected and appointed on consolidated pay on various dates in 2004-2005. They were brought under regular scale of pay with effect from 01.06.2006. These facts are not in dispute.

8.The primarily contention of the writ petitioners is that after terminating them from the post of Junior Lecturers on completion of contract period, another notification was issued by the authorities on 29.02.2004 for selecting 40 Junior Lecturers in DIET again on contract basis for a period of two years. However, without terminating their services after completion of two years, their services were continued and later, regularised. However, the said benefit have



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not been conferred upon the writ petitioners and this has resulted in loss of services and monetary benefits.

9.The petitioners have chosen to accept the order of termination after completion of contract period as Junior Lecturers. The petitioners have also accepted the offer of the Government to undergo a Special Test for being appointed as Junior Graduate Teachers in the High Schools. Therefore, the petitioners cannot now turn around and contended that their services should be regularised with effect from the date of their initial appointment in March/April 2002. In fact, their initial appointment is on a contract basis which came to an end on 21.02.2004. The services during the contract period can never be treated as a qualifying service unless the Government takes a policy decision to the said effect. That apart, the service regulations of Junior Lecturers in District Institute of Education and Training/ Teachers Training Institute are completely different from that of service regulations of Junior Graduate Teachers in Schools.

10.The second batch of Junior Lecturers who joined at DIET/TTI pursuant to the notification dated 29.02.2004 have also been regularised only from the reappointment date of their regularization namely 18.07.2007 and not from their initial date of appointment in 2004. In fact, the petitioners have been



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regularised ahead of second batch of Junior Lecturers appointed in 2004.

Therefore, the allegation of discrimination is not factually correct.

11.In view of the above said discussion, the writ Court has properly appreciated the facts and has arrived at a finding that the petitioners are eligible to get regularisation only from the date of their re-appointment and not from the date of initial appointment. We do not find any merit in the writ appeal. The Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J.,)

(R.V.J.,)

24.01.2024

Index :yes
Internet :yes
NCC :Yes/No
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To

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1.The Secretary to Government
The State of Tamil Nadu
School Education Department
Secretariat
Chennai 600 009

2.The Director
Directorate of Teachers Education
Research and Training
Chennai -6

3.The Director of School Education
DPI Complex, College Road
Chennai 600 006



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**D.KRISHNAKUMAR, J.
AND
R.VIJAYAKUMAR, J.**

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Pre-delivery Judgment made in

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