



W.P.(MD)No.18501 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 06.12.2024

DELIVERED ON : 20.12.2024

CORAM:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.P.(MD)No.18501 of 2017

and

W.M.P(MD)No.14923 of 2017

P.Ratinagiri

... Petitioner

Vs.

- 1.The Secretary,
School Education Department,
Secretariat,
Chennai.
- 2.The Director,
Directorate of School Education,
DPI Campus,
College Road, Chennai.
- 3.The District Educational Officer,
O/o District Education Office,
Karur District.

... Respondents

Prayer in W.P(MD)No.18501 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned order, dated 23.05.2016 passed by the 3rd respondent and quash the same and consequently call for the records pertaining to the G.O.No.116, school Education Department, dated 05.08.2011 and quash the same in respect of the date of regularization and directing the respondents to regularize the



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petitioner's service from the date of initial appointment as par with G.O.M.S.No.36 (School Education Department), dated 02.06.2015 with all service benefits and arrears as that of the similarly placed persons within a stipulated time.

Prayer in W.M.P(MD)No.14923 of 2017 : Writ Miscellaneous Petition filed under Article 226 of the Constitution of India, praying this Court to dispense with the production of the certified copy of G.O.Ms.No.116 School Education Department, dated 05.08.2011 for present.

For Petitioner : Mr.R.Lakshmanan

For Respondents : Mr.S.R.A.Ramachandran

Additional Government Pleader

ORDER

Heard both sides.

2. The petitioner was appointed as a part-time employee on 23.06.1992. Subsequently, the services of the petitioner, along with 26 others, were regularized according to the order of this Court in W.P.(MD) No.8847 of 2009. Following the Court's order, the Government issued G.O.Ms.No.116 dated 05.08.2011, regularizing the services of the petitioner and the 26 others along with one Mrs.Subbammal effective from the date of the said Government Order.



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3. The petitioner contends that his colleague, Mr.Solairasu, who joined as a part-time worker on 22.06.1993, was regularized through G.O.Ms.No.88 dated 01.04.2008, with effect from 01.04.2010. Subsequently, as per G.O.Ms.No.36 dated 02.06.2015, his appointment was regularized from the date of his initial appointment.

4. The petitioner filed W.P.(MD)No.983 of 2016, seeking regularization of his service from the date of his initial appointment. In that writ petition, the Court directed the respondents to consider the petitioner's representation on the matter. The petitioner subsequently filed an appeal in W.A.(MD) No. 925 of 2016, which was dismissed, affirming the order of the writ Court. Upon reviewing the petitioner's representation, the respondent rejected his claim. Aggrieved by this rejection, the petitioner has filed the present writ petition.

5. On the respondent's side, it was argued that G.O.Ms.No.36 dated 02.06.2015 was issued in a peculiar situation to avoid contempt proceedings and, therefore, cannot be considered as a precedent. Additionally, it was contended that if the petitioner's request is accepted, other individuals covered under G.O.Ms.No.116 dated 5.8.2011 might



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also come forward with similar requests.

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6. The petitioner contended that he is similarly placed as Mr. Solairasu and, therefore, his service should also be regularized from the date of his initial appointment. However, he failed to substantiate how his claim is legally sustainable. Apart from citing G.O.Ms.No.36 dated 02.06.2015, no other legal arguments were presented to substantiate the claim. In contrast, the respondents relied on the Supreme Court judgment in ***Harpal Kaur Chahal v. Director, Punjab Instructions, Punjab & Another, (1995 Supp 4 SCC 706)***, wherein the Apex Court held as follows:

“3..... The view of the High Court is obviously illegal and the judgment rendered would not form the ground for our holding that the others who got the benefit by illegal orders will be extended in favour of other candidates though illegally appointed. Article 14 cannot be extended to legalise the illegal orders though orders had wrongly got the benefit of the orders...”

7. In W.P(MD)Nos.2406 and 5033 of 2016, decided on 10.01.2018, this Court dismissed the writ petition filed by Subbammal and another seeking similar relief. They had prayed for the regularization of their



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services from the date of the initial appointment, referencing G.O.Ms.No. 36, dated 02.06.2015, and sought to quash G.O.Ms.No.116, dated 05.08.2011, to modify the date of regularization. This Court rejected their claim. The petitioner, along with 26 others, had accepted G.O.Ms.No.116 dated 05.08.2011, which explicitly stated that their appointments would be regularized from the date of the said order. Now, more than a decade later, the petitioner seeks to challenge this specific clause of the order which is legally unsustainable.

8. In these circumstances, as no substantial plea has been raised by the petitioner, other than seeking relief on par with his colleague under G.O.Ms.No.36 dated 02.06.2015, the petitioner's request cannot be granted in view of the Hon'ble Apex Court's judgment. Hence, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

20.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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DR.A.D.MARIA CLETE, J.
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