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WP No. 20917 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 14-07-2025

PRONOUNCED ON: 30-07-2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WP No. 20917 of 2024

1. T.Thangasamy
S/o. Thiraviam,
No. 7/4, Guruvappa Garden Street,
Opp. To H3 Tondiarpet Police Station,
Old Washermanpet,
Chennai -600021.

Petitioner(s)

Vs

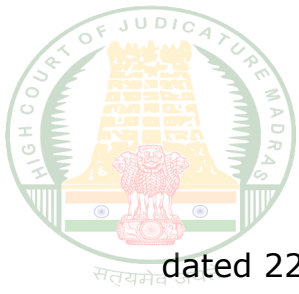
1. The State Of Tamil Nadu,
Represented By Secretary To
Government, Law Department,
Secretariat, Chennai -600009.

2.The Director Of Legal Studies,
Kilpauk, Chennai-600010.

3.The Principal,
Chennai Dr. Ambedkar Government
Law College, Pudupakkam, Chennai.

Respondent(s)

PRAYER Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, cCalling for the records relating to the Impugned order in Letter No. 697 1266/LS/2024 dated 02.04.2024 issued by the 1st Respondent quash the same and consequently direct the respondents to regularize petitioner's service and grant all the service benefits and emoluments on par with the other similarly placed persons as per the G.O. Ms.No. 354 of the 1st Respondent



WP No. 20917 of 2024

dated 22.06.2023.

WEB COPY

For Petitioner(s): Mr.R.Prabakar

For Respondent(s): Mr. D.Ravichnder,
Spl. GP Of Higher Education,
For Respondents

ORDER

The instant writ petition has been filed to call for the records relating to the Impugned order in Letter No. 697 1266/LS/2024 dated 02.04.2024 issued by the 1st Respondent quash the same and consequently direct the respondents to regularize petitioner's service and grant all the service benefits and emoluments on par with the other similarly placed persons as per the G.O. Ms.No. 354 of the 1st Respondent dated 22.06.2023.

2. Heard Mr.R.Prabakar, learned counsel for the petitioner and Mr.D.Ravichandran, learned Special Government Pleader for the respondents.

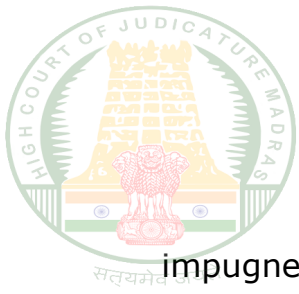
3 (a). The learned counsel for the petitioner would submit that the petitioner joined as a part time Lecturer on contract basis in the Dr.Ambedkar Government Law College, Chennai. Since the Government is attempted to terminate the petitioner along with other similarly placed persons, they have moved application before the Tamil Nadu



WP No. 20917 of 2024

Administrative Tribunal for regularization on par with the full time lecturers and that after abolition of the Tamil Nadu Administrative Tribunal, their applications were transferred to this Court and re-numbered as WP.Nos.41608 of 2006 etc., batch. It is the further submission of the petitioner that though the joint writ petition filed by the petitioner along with other part time lecturers seeking regularization was dismissed on 06.01.2011, the other petitioners of the writ petitions preferred appeal in WA.Nos.529 to 532 of 2011, wherein this petitioner was arrayed as a respondent and ultimately, the Division Bench ordered for regularization, which order was confirmed by the Hon'ble Supreme Court.

3 (b). The learned counsel would further submit that since because this petitioner was not arrayed as an appellant in the Writ Appeal, he was not considered for regularization, though the similarly placed persons were considered and all the benefits have been given. It is the further submission of the petitioner that, when he has sent representation, the same was rejected vide impugned order dated 02.10.2024 on the ground of delay and latches. The contention of the learned counsel for the petitioner is that, though the petitioner was not one of the appellant in the Writ Appeal, the order of the Writ Appeal is in the nature of judgement in rem, therefore, contended that he ought to have been considered for regularization. Hence, prayed to interfere with the



WP No. 20917 of 2024

impugned order dated 02.04.2024.

WEB COPY

4. Per contra, the learned Special Government Pleader would submit that, though the petitioner filed a writ petition seeking regularization, when it was dismissed in the year 2011, he did not pursue the same and acquiesced and accepted his termination. Therefore, the petitioner's representation with a delay of 12 years is hit by laches. The learned Special Government Pleader would further contend that the contention of the petitioner that he is the similarly placed person cannot be accepted, as he is the fence sitter. Hence, contended that as against the petitioner, the rejection of his representation is well merited on account of laches, delay and acquiescence. Hence, prayed to dismiss the writ petition.

5. I have given my anxious consideration to either side submissions.

6. It is an admitted fact that the petitioner was appointed as a part time lecturer on a contract basis by way of the proceedings of the 2nd respondent dated 21.08.1997 in Na.Ka.No.3725/B2/97 at Dr.Ambedkar Law College, Chennai. Admittedly, in their appointment order itself, there is a reference that their appointment is on contractual basis, and they will be relieved as and when regular appointment takes place. When they were ordered to be terminated, the petitioners have moved the

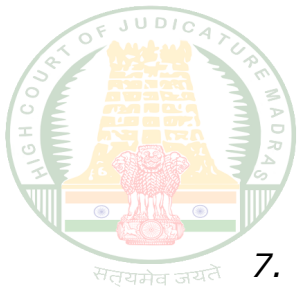


WP No. 20917 of 2024

applications before the Tamil Nadu Administrative Tribunal, and such application was transferred to this Court and was renumbered as WP.Nos.42245 of 2006 etc., batch.

7. In the same petition, along with the petitioner, there were other part time lecturers viz., Sheela Mercy Devadoss, V.Sophia Raju, K.S.Begum and Paranthaman. Admittedly, after the dismissal of the aforesaid writ petition, except this petitioner, the other part time lecturers viz., Sheela Mercy Devadoss, V.Sophia Raju, K.S.Begum and Paranthaman preferred a writ appeal in WA.Nos.529 to 533 of 2011, wherein this petitioner was also a party, but arrayed as the 3rd respondent. In the said writ appeal, the Hon'ble Division Bench vide judgment dated 08.07.2013 has directed the regularization of the other Professors. In paragraphs 6 & 7, the Hon'ble Division Bench observed as follows:-

"6.When the writ appeals came up for consideration, it is submitted that the issue involved in the present writ appeals is covered as per the judgment, dated 19.06.2013, in WA.No.754 of 2011, passed by this Court, wherein after following the earlier judgment passed by this Division Bench, in which one of us (Justice Elipe Dharma Rao) is a Member, as confirmed by the Hon'ble Apex Court, by order dated 03.05.2013 in Special Leave to Appeal (Civil) C.C.No.7454 of 2013, the writ appeal which was filed by the appellant therein, who is similarly placed as that of the present appellants, was allowed.



WP No. 20917 of 2024

WEB COPY

7. Following the aforesaid order, the present writ appeals are allowed setting aside the order passed by the learned single Judge in WP.Nos.42245, 42246, 41608 and 47378 of 2006 respectively, dated 07.01.2011. Connected MPs are closed. However, there will be no order as to costs."

8. The Hon'ble Division Bench, by following the judgment of this Court in WA.No.754 of 2011 has regularized the other Part Time Lecturers, who were arrayed as the appellants, and allowed WA.Nos.529 to 532 of 2011. For better understanding, this Court deems it appropriate to discuss about the issue dealt before the Hon'ble Division Bench. The Writ Appeal in W.A.No.754 of 2011 relates to the regularisation of full time contractual Lecturers. According to the appellants in WA.Nos.529 to 532 of 2011, they contended that they are similarly placed persons as that of the full time Lecturers.

9. The Hon'ble Division Bench has ultimately held that, when the contractual full time lecturers were allowed to get relief under G.O.Ms.No.9, dated 12.01.2001, the denial of such relief to part time Lecturers is offending under Article 14 & 21 of the Constitution of India, and ultimately, ordered for regularization of the part time Lecturers on par with the full time contractual Lecturers. The Hon'ble Division Bench has also observed that, when NMR and other contractual labours are permitted to regularize, the denial of such relief to the part time Law

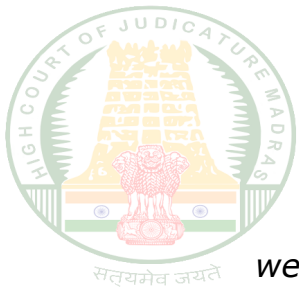


WP No. 20917 of 2024

College lecturers are against the public interest. It is in this background, the fact remains that, similarly placed person as that of the petitioner, who were appointed along with him were regularized in pursuance of the Division Bench judgment in W.A.Nos.529 to 532 of 2011, and the Government has also accepted the order of the Division Bench and regularized the petitioner's colleagues, who were appointed on the same day vide same Notification in G.O.Ms.No.354 dated 22.06.2023, but such regularization was denied to the petitioner on the only ground that he did not join with other person to file appeal against the dismissal of the writ petition, which refused to regularize the petitioner and other person.

10. In the impugned order, for such rejection, the respondent had relied upon the judgment of the Hon'ble Supreme Court in **State of Uttar Pradesh & Ors Vs. Arvind Kumar Srivastava and others** reported in **(2015) 1 SCC 347** and has extracted para 23 and the same is as follows:-

"23. Viewed from this angle, in the present case, we find that the selection process took place in the year 1986. Appointment orders were issued in the year 1987, but were also cancelled vide orders dated 22-6-1987. The respondents before us did not challenge these cancellation orders till the year 1996 i.e. for a period of 9 years. It means that they had accepted the cancellation of their appointments. They woke up in the year 1996 only after finding that some other persons whose appointment orders



WP No. 20917 of 2024

WEB COPY

were also cancelled got the relief. By that time, nine years had passed. The earlier judgment had granted the relief to the parties before the Court. It would also be pertinent to highlight that these respondents have not joined service nor working like the employees who succeeded in earlier case before the Tribunal. As of today, 27 years have passed after the issuance of cancellation orders. Therefore, not only was there unexplained delay and laches in filing the claim petition after a period of 9 years, it would be totally unjust to direct the appellants to give them appointment as of today i.e. after a period of 27 years when most of these respondents would be almost 50 years of age or above.”

11. It is the finding of the respondent that the petitioner, being the fence sitter and acquiesced of wrongful action and woke up after a long delay, cannot be considered by invoking Article 14 of the Constitution of India, as the judgment is in the nature of judgment in personam. But, this Court is not in a position to accept such reasoning. The fundamental issue resolved by the Hon'ble Division Bench is the rationality of applicability of G.O.Ms.9, dated 12.01.2001, between the full time contractual Lecturer and the part time contractual lecturers, and ultimately held that the G.O.Ms.No.9, dated 12.01.2001, which enables to regularize the part time lecturers those who have in continuous service of 10 years. Therefore, the judgment is in the nature of “judgment in rem”. Accordingly, notwithstanding the delay, the petitioner is entitled to be



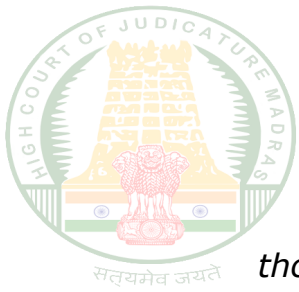
WP No. 20917 of 2024

considered in line with the binding precedent.

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12. In **Arvind Kumar Srivastava's** case [cited supra], the Hon'ble Supreme Court has categorically held that, when the judgment pronounced by the Court is judgment in rem, that too with intention to give benefits to all similarly situated persons, whether they approached the Court or not, there is an obligation cast upon the authorities to extend the benefit to all the similarly situated person. The Hon'ble Supreme Court has further identified the area in which the judgment has to be considered as rem and stated as follows:-

"22.3. However, this exception may not apply in those cases where the judgment pronounced by the court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated persons. Such a situation can occur when the subject-matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see *K.C. Sharma v. Union of India* [*K.C. Sharma v. Union of India*, (1997) 6 SCC 721 : 1998 SCC (L&S) 226]). On the other hand, if the judgment of the court was in personam holding that benefit of the said judgment shall accrue to the parties before the court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment,



WP No. 20917 of 2024

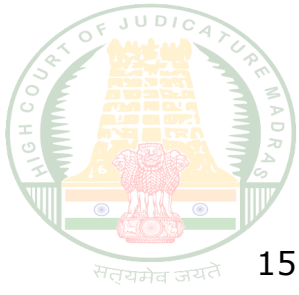
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those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence."

(emphasis supplied)

13. To consider the judgment whether it is a judgment in rem, we should see whether the subject matter of the decision touches upon the policy matters like scheme of regularization and the like and in support of the above findings, the Hon'ble Supreme Court relied upon the judgment in **K.C.Sharma and Ors Vs. Union of India** reported in **(1997) 6 SCC 721**. As held in **K.C.Sharma's case** [cited supra], this Court is of the firm view that the issue involves in this case is of regularization. Therefore, though the petitioner was not a party to the writ appeal, he is otherwise party as he was arrayed as a respondent in WA.Nos.529 to 532 of 2011.

14. Apart from that, the Hon'ble Division Bench has applied the legal principles applicable to the full time contractual lecturers, to the part time contractual lecturer. Such finding is in the nature of judgment in rem. Hence, the rejection order passed by the 1st respondent on the simple ground that he did not file an appeal is contrary to the ratio of this Court. In such a view of the matter, the impugned order dated 02.04.2024 is liable to be quashed.



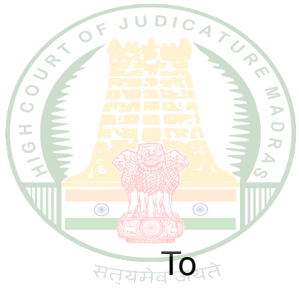
WP No. 20917 of 2024

15. In the result, this writ petition stands allowed and the impugned order dated 02.04.2024 is hereby quashed. The first respondent is directed to regularize the petitioner's service and grant all service benefits and emoluments on par with the other similarly placed persons as per the G.O.Ms.No.354 of the first respondent dated 22.06.2023, within a period of three(3) months from the date of receipt of a copy of this order. There shall be no order as to costs.

30-07-2025

Kmi/kv

Index:Yes
Speaking order
Internet:Yes
Neutral Citation:Yes



WP No. 20917 of 2024

To

WEB COPY

1. The State Of Tamil Nadu,
Represented By Secretary To Government, Law Department, Secretariat,
Chennai -600009.

2.The Director Of Legal Studies,
Kilpauk, Chennai-600010.

3.The Principal,
Chennai Dr. Ambedkar Government Law College,
Pudupakkam, Chennai.



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WP No. 20917 of 2024

C.KUMARAPPAN J.

Kmi/kv

WP No. 20917 of 2024

30-07-2025