



W.A.(MD)No.2893 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED : 28.11.2025**

CORAM:

THE HONOURABLE **Dr.JUSTICE ANITA SUMANTH**

AND

THE HONOURABLE **Mr.JUSTICE C.KUMARAPPAN**

**W.A.(MD)No.2893 of 2025**

**and**

**CMP(MD).No.16175 of 2025**

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.
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.

...Appellants

Vs.



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1. M.P.Bindu Saraswathy  
W/o.Late.C.Suresh Indira Kumar,  
17/125A, Narian Codu  
Padanthalumoodu Post,  
Kanniyakumari District-629 163.
2. Gopika  
D/o.Late.C.Suresh Indira Kumar,  
17/125A, Narian Codu  
Padanthalumoodu Post,  
Kanniyakumari District-629 163.
3. Mathav (Minor),  
S/o.Late.C.Suresh Indira Kumar,  
Rep. By his Natural Guardian  
M.P.Bindu Saraswathy  
17/125A, Narian Codu,  
Padanthalumoodu Post,  
Kanniyakumari District-629 163.

...Respondents

**PRAYER:-** Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 05.04.2024 in WP(MD).No.8179 of 2024 on the file of this Hon'ble Court.

For Appellants : Mr.J.Ashok  
Additional Government Pleader

For Respondents : Mr.T.Cibichakraborty

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## **JUDGMENT**

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(Judgment of the Court was made by **C.KUMARAPPAN, J.**)

The present Writ Appeal is filed against the order of the learned Single Judge dated 05.04.2024 by and in which the learned Single Judge directed the appellant herein to regularize the husband of the first respondent late C.Suresh Indira Kumar with effect from his date of initial appointment qua from 17.07.1995.

2.For convenience sake, the parties will be referred to according to their litigative status before the learned Single Judge.

3.(a).The brief facts which are necessary for disposal of the present Writ Appeal is that, the first petitioner's husband late.Mr.C.Suresh Indira Kumar was appointed as Vocational Instructor for Basic Electrical Engineering on 17.07.1995 in the 6<sup>th</sup> respondent School. Through the G.O.Ms.35, School Education Department dated 09.02.2007 the Government has regularized 622 fully qualified Vocational Instructors appointed before 20.09.1996. Accordingly, the petitioner claims that, late



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C.Suresh Indira Kumar, who was also appointed prior to 20.09.1996 and was fully qualified, was also eligible to be regularized with effect from the date of his initial appointment. Hence, he preferred a writ petition in WP.No.18183 of 2013 before the Hon'ble Principal Bench of Madras High Court, seeking a direction to the respondents to send him for short term training course in the concerned District Institute of Educational Training and to regularize his service as full time Vocational Instructor in terms of G.O.Ms.No.834 dated 23.09.1994 and G.O.Ms.No.358 dated 18.08.1997.

3.(b).In the above writ petition, vide order dated 04.07.2013, this Court has directed the authorities to send the first petitioner's husband and other similarly placed persons for a short term training. However, aggrieved with the said order, the State preferred an appeal in WA.No.340 of 2014, wherein the Hon'ble Division Bench vide order dated 03.09.2014 while dismissing the writ appeal gave liberty to the authorities to prefer a Review before the learned Single Judge.

3.(c).In pursuance of the above order, the State Government filed a Review Application in Rev.A.No.276 of 2014, wherein the Court directed



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the regularization of all the 25 writ petitioners, including the first petitioner's husband. Aggrieved with the order of the Review Petition, when the authority preferred writ Appeal as well as SLP, both got dismissed. After dismissal of SLP, the Authorities vide letter dated 22.08.2019 has directed the petitioner's husband to undergo short term training and in due compliance he participated in the training and completed the same successfully on 02.12.2019.

3.(d).After successful completion of training, the first petitioner's husband late C.Suresh Indira Kumar was regularized as a full time vocational instructor with effect from 20.12.2019 instead of from his date of initial appointment. Aggrieved with the same, a writ petition was filed, wherein the learned Single Judge directed the authorities to regularize the service of the first petitioner's husband C.Suresh Indira Kumar with effect from his date of initial appointment. Not satisfying with the above order, the Government has preferred the instant Writ Appeal.

4.Heard Mr.J.Ashok, learned Additional Government Pleader and Mr.T.Cibichakraborty, learned counsel for the respondents.



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5.The learned Additional Government Pleader would vehemently contend that the learned Single Judge without the counter statement, has disposed of the writ petition at the Admission stage itself. It is the specific submission of the learned Additional Government Pleader that the petitioner's husband, having accepted the fact of not fully qualified and participated in the training, and having not challenged the impugned regularization order dated 15.09.2020 during his life time, the present challenge by his legal heirs qua the present petitioner is not maintainable. It is the further submission of the learned Additional Government Pleader that the present writ appeal is hit by delay and laches. It is the specific submission of the learned Additional Government Pleader that, even in WP.No.18183 of 2013, there was a direction to regularize those who fully qualified, but the petitioner's husband was not fully qualified. That is why he was sent for the training. It is in this background, the learned Additional Government Pleader would contend that the order of regularization after completing the training viz., with effect from 2019 is in accordance with law. In support of his contention, he would rely upon the judgment of the Jharkhand High Court in *Raju Gope Vs. Union of India thorough its Secretary* reported in *2024 Supreme(jhk) 49*. In fine, he also would



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contend that, having the employee not challenged the impugned order of regularization, after a long lapse of time, the legal heir of the employee cannot challenge the same. Hence, prayed to allow the writ appeal.

6.*Per contra*, the said contention was stoutly objected by the learned counsel for the respondent/petitioner. He would contend that by virtue of G.O.Ms.No.35 dated 09.02.2007, those who joined service prior to 20.09.1996 are entitled to be regularized with effect from their date of initial appointment. The learned counsel would further submit that the petitioner was fully qualified for regularization from the date of his initial appointment, however, the Authorities have wrongly included his name as unqualified person and sent him for training. It is his specific submission that, since because the petitioner's husband was sent for a training, it will not alter the vested right conferred upon the petitioner's husband. Hence, would contend that there is no merit in the present writ appeal and prayed to dismiss the same.

7.We have given our anxious consideration to either side submissions.



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8.The main contention of the petitioner revolves around G.O.Ms.35 dated 09.02.2007. According to the above G.O., those who were fully qualified and were appointed prior to 20.09.1996 were considered for regularization with effect from their date of initial appointment. The learned counsel for the petitioner would submit that since the petitioner's husband was appointed on 17.07.1995 and was fully qualified for that post, he ought to have been regularized with effect from the date of his initial appointment viz., 17.07.1995. But, such contention was stoutly objected by the learned Additional Government Pleader and would submit that the petitioner's husband was not fully qualified as on the date of G.O.Ms.No.35 dated 09.02.2007, and that he was appointed as a Vocational Instructor by the parent teachers association in the subject of Basic Electrical Engineering.

9.According to the respondent, as on the date of G.O.Ms.35, the petitioner's husband had the Diploma In Electronics and Communication, and Degree in B.Sc., Electronics. He secured B.E., Electrical and Electronics engineering later on during 2010. In support of his contention, he would rely upon the provisional certificate and degree certificate



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respectively of the above degree. This Court perused those certificates and find the correctness of the same. Accordingly, as rightly contended by the learned Additional Government Pleader, the petitioner's husband was not fully qualified as on the date of G.O.Ms.No.35.

10.This factum further strengthened from the order dated 04.07.2013 in WP.No.18183 of 2013, in which the petitioner's husband sought a relief to give a short term training as provided to the unqualified Vocational Instructor in G.O.Ms.No.358 dated 18.08.1997. Therefore, the contention of the petitioner that her husband was qualified from the date of his initial appointment is falsified through the records submitted by the respondent as well as from the observation made by the learned Single Judge in WP.No. 18183 of 2013.

11.At this juncture, the learned Additional Government Pleader would invite the attention of this Court in respect of the order dated 22.08.2019 in Proceedings No.Na.Ka.No.6080/V1/E1/2013. In the above order, those who did not have the required qualification was directed to participate in training. The above order refers 27 names and the petitioner's



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husband name also is figuring in Serial No.3. The heading of the above order mentioned as “போதிய கல்வித்தகுதி இல்லாமல் வழக்கு தொடுத்தவர்களுக்கு நீதிமன்ற தீர்ப்பின் அடிப்படையில் குறுகிய கால பயிற்சி அளிக்கப்பட வேண்டியவர்களின் விவரம்”. The nearest translation is, “the details of person those who do not have necessary qualification, required to undergo training as per the order of the Court”. The heading of the list would unequivocally demonstrate that the petitioner's husband was not fully qualified as on the date of the above order.

12.As rightly contended by the Additional Government Pleader, on the date of issuing the above proceedings dated 22.08.2019, the petitioner's husband was alive, but, he did not choose to challenge the above order. Subsequently, after completion of training, when he was regularized on 23.09.2020 with effect from 17.09.2020, he again did not challenge the same. He died only on 27.07.2021. Therefore, this Court is of the firm view that the findings rendered by the learned Single Judge that the petitioner's husband was fully qualified even on the date of his initial appointment is factually incorrect. Apart from that, when the petitioner's



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husband himself did not challenge such an order, the challenge by his legal heir, that too after long lapse of three years cannot be entertained.

13. In this regard, it is appropriate to refer the judgment of the Hon'ble Division Bench of the Jharkhand High Court in **Raju Gope** [cited supra]. For ready reference, the relevant paragraph 36 is extracted hereunder:-

*“36. The further admitted fact that has been taken by the learned Tribunal at under paragraph 10 thereon that the late father of the writ petitioner while was alive after superannuation there was deduction from his salary which is the sine quo non for grant of benefit under the NPS. It is also admitted fact that there was no objection by late father of the writ petitioner on his behalf during his life time, however, when he has died then his son, who is petitioner, applicant before the tribunal had raised the issue that his father held to be entitled for the benefit under the fold of old pension scheme.”*

The above proposition is squarely applicable to the case in hand.

14. In view of the above detailed discussion, this Court is of the firm view that the order of the learned Single Judge is liable to be interfered with. However, we make it clear that if any amount has already been paid based upon the impugned writ order, there cannot be any recovery order against the petitioner.



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15. In the result, as indicated above, this Writ Appeal is partly allowed and the order dated 05.04.2024 made in WP(MD).No.8179 of 2024 passed by the learned Single Judge is hereby set aside. No costs. Consequently, connected CMP is also closed.

**[A.S.M.J.] & [C.K.J.]**  
**28.11.2025**

*kmi*

NCC :Yes/No

Index :Yes/No

Speaking Order/Non-speaking order



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**DR.ANITA SUMANTH, J.**  
**AND**  
**C.KUMARAPPAN, J.**

*kmi*

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