

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30/09/2004

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

WRIT PETITION NO.10578 OF 1996

AND

W.P.M.P.NO.14037 OF 1996

Tamil Nadu Higher Secondary
Vocational (Part-Time)
Teachers' Association,
rep. by its General Secretary,
A.Nallappan, Ariyalur,
Trichi District. .. Petitioner

-Vs-

1. State of Tamil Nadu rep. by
the Secretary to Govt.,
Education, Science and
Technology Department,
Fort St. George,
Madras.9.

2. Director of School Education,
Madras-6. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus as stated therein.

For petitioner : Mr.S.Kamadevan

For respondents : Mr.R.Chandrasekaran,
Govt. Advocate.

:O R D E R

The above Writ Petition has been filed by the petitioner on behalf of the Tamil Nadu Higher Secondary Vocational (Part-Time) Teachers' Association praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the Government in G.O.Ms.No.834 Education, Science and Technology Department dated 23.9.1994, quash the same in so far as it affect adversely the members of the petitioner association whose benefits conferred earlier are sought to be denied, and to direct the respondents to continue the benefits to the beneficiaries of the appointment without any

break, with all consequential benefits.

2. The case of the petitioner is that the Government originally, sanctioned 1324 posts in G.O.Ms.No.1719 Education Department dated 14.9.1978; that already there were in existence 3000 posts and in all there were 4324 posts of Vocational Instructors, out of which they sanctioned, 800 posts in G.O.Ms.No.712 Education Department dated 28.5.19 90 and 587 posts, in G.O.Ms.No.967 Education Department dated 16.10.1 992; that while giving appointment to those posts, they directed to consider first Double Part time teachers and then Single Part time teachers which resulted in filing application before the Tamil Nadu Administrative Tribunal by seniors who were working as Single Part time teachers; that when the strength increased, the Single Part time Teachers were conferred as Double Part time Teachers in some cases and where there was a new opening of a section they directly appointed persons as Double Part time Teacher; that because of this situation, a senior

though he had been in service for years together was denied the seniority as well as the appointment on the ground that he was only Single Part Time Teacher.

3. The further case of the petitioner is that the Tamil Nadu Administrative Tribunal has passed an order directing the Government to fill up the above sanctioned posts drawing a common seniority list in the concerned subject irrespective of the appointment either as Single Part Time Teachers or Double Part time Teachers so that the grievance of the seniors could be eliminated; that before the delivery of the said judgment, most of the senior most Single Part Time Teachers have been brought into regular time scale and only few people were left out; that equally, some of the junior Double Part Time Teachers also got chance as per the earlier orders of the Government; that therefore, the Government cancelled the earlier order and directed to bring all the teachers again to consolidated pay till final orders were passed consolidating the situation; that now, the Government has passed the impugned order directing to fill up the posts according to seniority, in the concerned subject, further directing to bring them to the consolidated pay with a direction not to recover the amount already paid on time scale, as a result of which, the persons already enjoyed the benefit of time scale were deprived the same for about one year; that they have also lost their annual increments which accrued to them from 1990 in respect of one batch and from 1992 in respect of another batch. In such circumstances, the petitioner association has come forward to file this Writ Petition praying for the relief extracted supra.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondents as well and the materials placed on record have also been perused.

5. Today, when the above writ petition was taken up for consideration the learned counsel for the petitioner has produced a copy of order dated 24.6.2004 made in W.P.Nos.11389 to 113935 of 2003 etc. by the Division Bench of this Court in a batch of Writ Petitions on similar set of facts wherein the said Court has held:

" Having regard to the facts and circumstances of the case, we feel interest of justice would be served by issuing the following directions :-

(1) The impugned G.O.Ms.No.834 Education Science and Technology (HS. II) Department dated 23.9.1994 is quashed to the extent and so far as it takes away the vested right of regularisation already conferred on the Double Part-time Instructors as per G.O.Ms.Nos.712 of 1990 and 9 67 of 1992.

(2) Such Double Part-time Instructors, who were regularised pursuant to the aforesaid G.O.Ms.Nos.712 of 1990 and 967 of 1992, shall continue to enjoy the status they had acquired, including the regular increments as per their original date of regularisation.

(3) Single Part-time Instructors, who were otherwise qualified, shall be deemed to have been regularised with effect from the date on which any Double Part-time Instructors junior to them had been regularised and their seniority and length of service would be treated as such from the deemed date of regularisation for all purposes.

(4) All such double part time instructors and single part time instructors, who are deemed to have been regularised, as per the directions contained in paragraphs 2 and 3 shall be entitled to the benefit of notional increment in the regular scale of pay applicable to them from the deemed date of their regularisation. However, no amount shall be paid towards such notional increment.

(5) No recovery shall be made from any of the double part time teachers or single part time teachers. While realigning the seniority of the single part time teachers vis-a-vis double part time teachers, there shall not be any reduction in scale of pay already drawn by the double part time teachers and no recovery shall be made."

5. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for both, this Court is of the view that since the subject matter of the above Writ Petition and the proposition held by the Division Bench of this Court are having similar set of facts, following the above propositions of the Division Bench of this Court, it is only a covered judgment wherein the questions raised herein have been answered and therefore it is only desirable to pass orders in the same manner and hence the following order:

In result,

(i) The impugned G.O.Ms.No.834 Education Science and Technology (HS. II) Department dated 23.9.1994 is quashed to the extent and so far as it takes away the vested right of regularisation already conferred on the Double Part-time Instructors as per G.O.Ms.Nos.712 of 1990 and 9 67 of 1992.

(ii) Such Double Part-time Instructors, who were regularised pursuant to the aforesaid G.O.Ms.Nos.712 of 1990 and 967 of 1992, shall continue to enjoy the status they had acquired, including the regular increments as per their original date of regularisation.

(iii) Single Part-time Instructors, who were otherwise qualified, shall be deemed to have been regularised with effect from the date on which any Double Part-time Instructors junior to them had been regularised and their seniority

and length of service would be treated as such from the deemed date of regularisation for all purposes.

(iv) All such double part time instructors and single part time instructors, who are deemed to have been regularised, as per the directions contained in paragraphs 2 and 3 shall be entitled to the benefit of notional increment in the regular scale of pay applicable to them from the deemed date of their regularisation. However, no amount shall be paid towards such notional increment.

(v) No recovery shall be made from any of the double part time teachers or single part time teachers. While realigning the seniority of the single part time teachers vis-a-vis double part time teachers, there shall not be any reduction in scale of pay already drawn by the double part time teachers and no recovery shall be made.

(vi) With the above directions, the above Writ Petition is disposed of.

(vii) No costs.

(viii) Consequently W.P.M.P.NO.14037 OF 1996 is closed.

Index:Yes

Internet:Yes

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To

1. The Secretary to Govt., Education, Science and Technology Department, Fort St. George, Madras.9.

2. Director of School Education, Madras-6.

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