

(2011) 02 MAD CK 0125
In the Madras High Court
Case No : W.A. (MD) No. 265 of 2011

The State of Tamil Nadu

APPELLANT

Vs

V. Sundaravadivel

RESPONDENT

Date of Decision : 28-02-2011

Acts Referred:

Citation : (2011) 02 MAD CK 0125

Hon'ble Judges : R. Subbiah, J;N. Paul Vasanthakumar, J

Bench : Division Bench

Advocate : R. Janakiramulu, Special Government Pleader, for the Appellant; S. Chellapandian, for the Respondent

Final Decision : Dismissed

Judgement

R. Subbiah, J.—The writ appeal is directed against the order, dated 12.04.2010 made in W.P.(MD) No. 8090 of 2008 whereby the

learned single Judge directed the third Appellant to consider the claim of the Petitioner as a special case in sending him for short term training

course in District institution of training at Oddanchatram, if there are no other legal impediments. After such successful completion of training,

directed the educational authorities to regularize the Respondent in the full time vocational instructor as per the Government order in G.O. Ms. No.

834, dated 23.09.1994.

2. It is the case of the Respondent that he had passed type writing in higher in Tamil and English in the year 1984. He was appointed as part time

vocational instructor at I.T.O Higher Secondary School, Aykudi, Dindigul District on 19.07.1989 in the regular vacant post from the date of

appointment. While so, the Government issued G.O. Ms. No. 834, Education

Department, dated 23.09.1994 took a decision to regularize the qualified vocational instructors according to their seniority.

3. Further, it has been stated in the said Government order if the vocational instructors are not having the prescribed qualification directed them to

undergo short time training course conducted by the Education Department as per the order of the Government. The third Appellant has also by

letter dated 23.09.1994 directed the Respondent to undergo prescribed training. In spite of the order of the third Appellant, the management of the

school refused to relieve the Respondent to take part in the training conducted by the Department of School Education. Hence, the Respondent

filed W.P. No. 15319 of 2005 for a direction to the school management to send the Respondent for the short-term training course and the said

writ petition was allowed by this Court. But by the time, the training course was concluded and the school management has also surrendered the

vocational teacher post. Hence, this Court in the order further directed the Department of School Education, to provide alternative employment for

Respondent to any other school. Pursuant to the order of this Court, the third Respondent appointed the third Respondent as part time vocational

teacher at Vamparpatti Government Higher Secondary School on 24.05.2002. In the meantime, the Respondent has also completed P.G. degree

in political science on 01.06.2005 which is a required qualification to appoint the Respondent as full time vocational teacher in the regular time

scale of pay. Hence, the Respondent requested the third Appellant to appoint him in the fulltime vocational teacher in the regular pay scale. The

Respondent has also sent his application along with the supporting documents namely degree certificate and service particulars. In spite of the

same, the Respondent was not absorbed in regular time scale of pay. In the mean time, the Government issued an order in G.O. Ms. No. 74,

dated 10.06.2002 stating that 361 part time instructors should be absorbed in the regular time scale of pay and consequently issued direction to the

educational authorities to appoint the part time instructors in the existing vacancies in the secondary grade scale of pay. Pursuant to the said

Government order, the third Appellant also sent a list of qualified teachers on 18.07.2005 to the second Appellant. The third Appellant, failed to

appoint the Respondent as full time vocational teacher, even though he is fully

eligible for the post of full time vocational instructor as per G.O. Ms.

No. 74, dated 10.06.2002. further, in the year,2007, the Government has issued another G.O. Ms. No. 35, dated09.02.2007 facilitating the

Education Department to convert the qualified 213 part time vocational teachers into fulltime vocational teachers and further the order enables the

Department to appoint the part time teachers who were qualified after 1996 as the full time teachers. Though the Respondent was appointed as

part time teacher, he was constrained to act as full time teacher by taking 28classes in a week. He was also permitted to do the regular teacher

works in the academic year. Since the Appellants failed to appoint the Respondent as full time vocational instructor, he has come forward with the

writ petition.

4. In the counter affidavit filed by the third Appellant, it has been stated that the Respondent was appointed only as part time vocational instructor

and not in the regular vacant post. The Respondent voluntarily abandoned the duty from 31.05.1994 onwards. Therefore, at the time of training, he

was not working in the vocational post, and therefore he could not be sent for training by the I.T.O Higher Secondary School, Ayakudy.

Moreover, the Petitioner has not completed U.G. degree under 10 +2+3pattern and had completed M.A.P.G. degree in May 2005. As per G.O.

Ms. No. 6, School Education(VE) Department dated04.01.2000, the prescribed qualifications for the post of office secretary ship is pass in type

writing with any degree from the recognized University obtained from the State or a degree of equivalent standard and type writing higher grade in

English/Tamil and TTC. As per G.O. Ms. No. 476/Education Department, dated 19.11.1997, the direct M.A. course without U.G degree is not

considered for appointment. Hence, the Respondent was not fully qualified for the vocational instructor post.

5. The learned single Judge on consideration of the submissions made on either side directed the third Appellant to consider the claim of the

Petitioner as a special case in sending him for short term training course in District institution of training at Oddanchatram, if there are no other legal

impediments. After such successful completion of training, directed the educational authorities to regularize the Respondent in the full time

vocational instructor as per the Government order in G.O. Ms. No. 834, dated

23.09.1994. Hence, the present appeal.

6. We have heard the learned Counsel on either side and perused the materials available on record.

7. The Division Bench of this Court in a batch of writ petitions in W.P. Nos. 9780 of 1995 etc., by a common order dated 08.07.2004, directed

that even unqualified vocational instructors who have completed short term training course should be treated as regularly appointed person and

they should be regularized in the light of G.O. Ms. No. 834, dated 23.09.1994. In compliance with the said Division Bench order of this Court, the

Appellants sent part time vocational instructors for the short term course in spite of the fact that they are unqualified vocational instructor.

Therefore, by relying upon the said judgment, the learned single Judge directed the Appellants to consider the claim of the Petitioner as a special

case in sending him for short term training course in District institution of training at Oddanchatram, if there are no other legal impediments. After

such successful completion of training, directed the educational authorities to regularise the Respondent in the full time vocational instructor as per

the Government order in G.O. Ms. No. 834, dated 23.09.1994. In our opinion, the learned single Judges justified by relying upon the earlier order

of the Division Bench of this Court.

8. In the light of the same, we do not find any infirmity in the said direction. Hence, we are not inclined to make interference in the order passed by

the learned single Judge. The writ appeal is dismissed. No costs. Consequently, connected miscellaneous petitions is closed.