

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.833/2012

Dated Friday, the 30th day of November, 2018

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

&

Hon'ble Mr.P.Madhavan, Judicial Member

V.Balakrishnan,
Primary School Teacher,
College D'Emseogme,emt Secondaire,
Karaikal 609 602

...Applicant

By Advocate Mr.S.Srinivasan

Vs.

1. The Union Territory of Puducherry,
Rep., by the Secretary, Government of Puducherry,
Education Department, Secretariat, Puducherry.

2. The Director of School Education,
Government of Puducherry,
Perunthalaivar Kamaraj Centenary
Education Complex, 100 Feet Road,
Anna Nagar, Puducherry.

...Respondents

By Advocate Mr.R.Syed Mustafa

(Order: Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

“To call for all records relating to the impugned rejection order passed in No.24759/DSE/Estt.IV/C/2010 dated 27.06.2012 passed by the 2nd respondent herein and quash the same as arbitrary, unreasonable, improper, illegal, against the rules and regulations of the respondents and violative to the fundamental rights guaranteed under Constitution of India and thereby direct the respondents herein to retrospectively regularize the services of the applicant as Primary School Teacher (French), College D'Enseignement Secondaire, Karaikal from the date of his initial appointment i.e., 17.06.2002 instead of from the date of order of regular appointment dated 07.12.2011 with all consequential monetary and other service benefits as done in the case of other similarly placed person within the stipulated time frame fixed by the Hon'ble Tribunal and pass such further or other order as it may deem fit and proper in the circumstances of the case and thus render justice.”

2. Learned counsel for the applicant would submit that the applicant had been appointed to handle primary classes in French medium schools under the second respondent on 17.06.2002 on a consolidated pay in relaxation of the relevant rules which required possession of D.T.Ed training certificate or S.G.T training certificate offered by a recognized institution. His services had been periodically extended till the academic year 2011-2012. The applicant sought regularization from the initial date of appointment which was turned down by the respondents, on account of which he filed OA 1062/2007 before this Tribunal. The OA was disposed of by an order dated 01.12.2010 directing the respondents to consider the case of the applicant and accommodate him in the vacant posts on

regular basis. WP No.14565/2011 filed by the respondents against the Tribunal's order failed in the Hon'ble Madras High Court following which the respondents appointed the applicant as Primary School Teacher (PST) on regular basis. However, his services were not regularized w.e.f. his date of initial appointment. Hence this OA.

3. The respondents have filed a reply pointing out that the applicant did not possess the requisite qualification for the post. However, as there were no eligible candidates satisfying the Recruitment Rules and, therefore, the posts could not be filled up, it was decided to fill up the post with a candidate possessing B.A., B.Sc., degree with French as second language from high school to degree level as a temporary arrangement on consolidated pay. The applicant was appointed on consolidated pay in pursuance of such decision. The applicant filed OA 1062/2009 with a prayer to regularize his service in Government French College, Puducherry and bring him under regular time scale of pay from the date of his initial appointment with all consequential monetary and service benefits, as was allegedly allowed to similarly placed persons.

4. The Tribunal in its order dated 01.12.2010 in the said OA had clearly stated that though the applicant had no vested right to claim regularization as a matter of right, considering the length of service put in by him, that he had also been selected and appointed by a due selection process and no candidate was available to teach French and there were

regular vacancies in the post, following the Tribunal's order in OA 709/2006 & Batch dated 12.06.2009, the respondents were directed to consider the case of the applicant to be accommodated in a vacant post on regular basis and pass orders. Clearly no direction was given to regularize the applicant from the initial date of engagement.

5. After the respondents' writ petition in the Hon'ble Madras High Court failed, the respondents implemented the order of this Tribunal and nothing survived in the matter. As the claim for retrospective regularization had been made by the applicant in the previous round of litigation itself and the Tribunal as well as the Hon'ble High Court considered the totality of the circumstances and gave a direction for appointment with prospective effect only, this OA is not maintainable as it is hit by the principles of res judicata, it is contended.

6. We have considered the matter. It is not in dispute that the applicant prayed for regularization w.e.f the date of his initial appointment itself with all consequential benefits in OA 1062/2009 which was disposed of by an order of this Tribunal dated 01.12.2010. The order was upheld by the Hon'ble High Court of Madras in WP No.14565/2011 which was disposed of by an order dated 24.06.2011. It is further seen that even the two precedent cases cited by the applicant to justify his claim had been referred to in the order of this Tribunal as well as the order of the Hon'ble High Court. As the respondents have complied with the order, we are inclined to agree with their contention that nothing survived in the

matter and the question of retrospective regularization cannot be revisited by the Tribunal in this OA.

7. In view of the above, OA is dismissed as not maintainable being hit by the principle of res judicata.

(P.MADHAVAN)
MEMBER(J)

(R.RAMANUJAM)
MEMBER (A)

30.11.2018

M.T.