

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.A.No.1467 of 2015

and

M.P.No.1 of 2015

- 1.The Government of Tamilnadu,
rep by the Secretary to the Government,
Education Department,
Fort St. George,
Chennai.
- 2.The Director of Elementary Education,
College Road,
Chennai-600 006.
- 3.The District Elementary Educational Officer,
Trichy District,
Trichy. ... Appellants/Respondents

Vs.

S.Velusamy

... Respondent/Petitioner

This writ appeal is preferred under Clause 15 of Letters Patent against the order of this Court dated 10.12.2012 passed in W.P.No.25640 of 2005.

WP No.25640/2005:-

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of writ of mandamus directing the first respondent to consider the petitioner as possessing S.S.L.C. qualification or to grant relaxation for possessing S.S.L.C. qualification and issue a consequential direction to the First Respondent to grant time scale of pay of Rs.610-1075 to the petitioner and to grant consequential selection and special Grade to the petitioner in the post of Pre Vocational Instructor with effect from 17.8.1993 and 17.8.2003 respectively with service and monetary benefit

For Appellants : Mr.K.Karthikeyan, GA (Education)

JUDGMENT

(The Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant appeal is preferred by the State against the order dated 10th December 2012 passed in W.P.No.25640 of 2005.

2 One S.Velusamy filed the instant petition and one K.Chandran also filed a writ petition, being W.P.No.25614 of 2005, seeking for a direction to the State / respondents therein to consider the writ petitioners as possessing Secondary School Leaving Certificate (for short "SSLC") qualification or to grant relaxation for possessing the SSLC qualification and to issue a consequential direction to grant time scale of pay of Rs.610-1075 and to grant selection and special grades to the petitioners in the post of Pre Vocational Instructors, in the case on had, it was sought to be granted from 17th August, 1993 and in the case of the other petitioner, the effective date was from 30th December, 1995.

3 The petitioners were initially appointed as part time Pre Vocational Instructors, without having minimum general educational qualification, i.e., SSLC. The qualification prescribed therein under Schedule I of the General Subordinate Service Rules was as under :

"(1) A pass in the Secondary School Leaving Certificate with eligibility for admission to College Course of studies in the Universities in this State; or

(2) A pass in the Secondary School Leaving Certificate Examination of this State.

Explanation - (i) A person who had appeared for 11 year S.S.L.C. Public Examination and obtained 35% marks in each subject either in one sitting or compartmentally, shall be deemed to have passed the S.S.L.C. Public Examination.

Explanation - (ii) A person who had appeared for 11 year S.S.L.C. Public Examination and had failed to obtained 35% marks in one or more subjects, but who has appeared and obtained 35% marks in the corresponding subject or subjects in 10 year S.S.L.C. Public Examination, shall be deemed to have passed the S.S.L.C. Public Examination.

Explanation - (iii) A person who had studied optional subjects in 11 year S.S.L.C. and failed in the optional subjects but had obtained 35% marks in all other subjects except the optional subjects in 11 year S.S.L.C. Public Examination shall be deemed to have passed the S.S.L.C. Public Examination.

Explanation - (iv) A person who had appeared and passed the X standard Government Examination conducted by the Board of Open School, Tamil Nadu shall be deemed to have passed S.S.L.C. Public Examination".

4 It was further clarified by G.O.Ms.No.745, Personnel and Administrative Reforms (Personal-P) Department, dated 18th July, 1980, as under :

"(17) a certificate with eligibility for admission to the higher secondary course".

5 Subsequently, on 23rd January, 1982, it was further clarified as under :

"I am also to add that candidates who have appeared and failed in the SSLC (XI Std.) Public Examination after 11 years of regular schooling can be considered to possess the Minimum General Educational Qualification prescribed for entry into Public Service irrespective of the marks obtained by them in the Public Examination".

6 The learned Single Judge, considering the matter extensively, held as under :

"4. x x x x x x In G.O.Ms.No.1366, Education Department, dated 05.09.1986, the words used therein are "general educational qualification for the post of Craft teachers in the middle schools under all kinds of management be raised to SSLC". That is to say, the word used therein is "SSLC". If the words used therein are "minimum general educational qualification" based on G.O.Ms.No.745, Education Department, dated 18.07.1980, since the petitioners have passed 10th standard, the argument of the learned counsel for the petitioners can be accepted and the relief can be granted. But the word used in G.O.Ms.No.1366 is "SSLC". Admittedly the petitioners have not passed SSLC. Under such circumstances, the argument of the learned counsel for the petitioners that SSLC and the minimum general educational qualification are one and the same cannot be accepted for the simple reason that by amendment issued in G.O.Ms.No.745, Education Department dated 18.07.1980 and also the clarification issued in the further letter of the Government dated 23.01.1982, though the minimum general educational qualification has now been brought down to pass in 10th standard, since the word used in G.O.Ms.No.1366 is "SSLC", the petitioners cannot be said to be of possessing the required qualification to receive the scale of pay of Rs.610-1075. Consequently, one portion of the relief sought by the petitioners to declare them as possessing required qualification to fix their scale of pay as Rs.610-1075, cannot be accepted."

7 However, having regard to the relaxation granted to other persons and also keeping in mind the length of service put by the petitioners, the third appellant herein was directed to forward the particulars of the writ petitioners to the second appellant herein within a period of four weeks and in turn, the second appellant herein was directed to consider the proposal within a period of eight weeks thereafter.

8 The impugned order was passed on 10th December, 2012. The appellants have come up with the instant appeal after a period of about one year. The direction given by the learned Single Judge is not a positive direction. It is only for consideration on its own merit and in accordance with law. Thus, there is no occasion for the State Appellants to have any grievance, particularly when the appellants have not come up with the instant appeal within the specified time granted by the learned Single Judge. Further, this appeal is preferred against one writ petitioner only.

9 In view of the foregoing and regard being had to the direction issued by the learned Single Judge, we are not inclined to interfere with the impugned order. Accordingly, the writ appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

sd/-
ASSISTANT REGISTRAR

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

vvk

To

1.The Secretary to the Government,
The Government of Tamilnadu,
Education Department,
Fort St. George, Chennai.

2.The Director of Elementary Education,
College Road, Chennai-600 006.

3.The District Elementary Educational Officer,
Trichy District, Trichy.

+1 CC to Govt.Pleader. SR.NO.53815

W.A.No.1467 of 2015

CO-GR

JD 13/10/2015