

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.21630 and 21631 of 2014
and

M.P.Nos.1 and 1 of 2014 in W.P.Nos.21630 & 21631 of 2014
&

M.P.No.1 of 2015 in W.P.No.21631 of 2014

R.Veeramuthu

... Petitioner in
W.P.21630/2014

A.Peter

... Petitioner in
W.P.21631/2014

Vs

1. State of Tamil Nadu,
rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.
2. Director of Elementary Education,
College Road, Chennai-600 006.
3. The Director,
State Council for Education,
Research and Training,
College Road, Chennai-600 006. ... Respondents 1 to 3
in both W.Ps
4. District Elementary Educational Officer,
Coimbatore, Coimbatore District.
5. Assistant Elementary Educational Officer,
Kinathukadavu,
Coimbatore District. ... Respondents 4 & 5 in
W.P.No.21631/2014
6. The District Elementary Education Officer,
Coonoor, The Nilgiris District.
7. The Assistant Elementary Education Officer,
Kothagiri, The Nilgiris District. ... Respondents 4 & 5 in
W.P.No.21630/2014

Prayer :- Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 3rd respondent in his Proceedings Na.Ka.No.5567/A3/2011 dated 23.7.2014 and quash the same and direct the respondents to evaluate the petitioners Teacher Training Course Certificate and confer all the consequential benefits.

For Petitioners : Mr.S.N.Ravichandran
in both W.Ps.

For Respondents : Mr.R.Vijayakumar
in both W.Ps. Addl. Govt. Pleader

COMMON ORDER

Since the facts are identical in both the writ petitions, they are taken up together for disposal with the consent of the learned counsel for the petitioners as well as the learned Additional Government Pleader.

2. Petitioners have passed 10th standard in Kerala State during the year 1991 and 1998 respectively. The petitioner R.Veeramuthu, joined Teacher Training Course in 1992 in Kerala State and completed the Course in 1994 and the petitioner A.Peter, joined Teacher Training Course in 1989 in Kerala State and completed the Course in 1991. Thereafter, the petitioners were appointed as Secondary Grade Teachers during 1995. The services of the petitioner R.Veeramuthu was terminated on 31.8.1998 and he challenged the order of termination by filing Original Application before the Tamil Nadu Administrative Tribunal in O.A.7484 of 1998 and the Tribunal granted an interim order staying the order of termination. The reason for termination was on the ground that the petitioner has not obtained 50% marks in the Teacher Training Course undergone by the petitioner in Kerala State. During the pendency of the said Original Application before the Tribunal, the petitioner appeared for improvement examination and secured more than 50% marks. Thereafter, O.A.No.7484 of 1998 was transferred to this Court and renumbered as W.P.No.35206 of 2006. During the pendency of the said writ petition, the petitioner R.Veeramuthu had passed Plus Two examination. The said writ petition was dismissed by this Court, by order dated 08.01.2010 pointing out that G.O.Ms.No.1236, Education Department, dated 17.9.1984 has been subsequently clarified in G.O.(1D) No.26, School Education

Department, dated 21.02.2003 and by virtue of Clause 3 and 4 in paragraph 4 of the said G.O., the petitioner's case could not be considered. In the light of the said finding, it was held that the validity of G.O.Ms.No.1236, Education Department, dated 17.9.1984 need not be gone into and accordingly, the writ petition was dismissed leaving it open to the petitioner to work out his rights in accordance with G.O.(1D) No.26, School Education Department, dated 21.02.2003, if already such benefit has not been extended.

3. The petitioner R.Veeramuthu sought for evaluation of his Teacher Training Certificate issued by the Kerala State. This was rejected by the 3rd respondent by order dated 23.07.2014 and the said order is impugned in W.P.No.21630 of 2014.

4. Though, initially the petitioner's (R.Veeramuthu) services was terminated on the ground that he had not secured 50% marks, subsequently, he had appeared for improvement examination and had secured more than 50% marks. However, the impugned order does not reject the petitioner's case or place the petitioner in a disadvantage position on the ground that he has not secured 50% marks, but a new ground is mentioned, stating that the petitioner has not passed Plus Two examination and owing to such reason, the petitioner's request for evaluation of his Teacher Training Certificate has been rejected.

5. It is to be pointed out that at the first instance the petitioner R.Veeramuthu's request for evaluation was rejected in 1996 for the reason that he has not secured 50% marks in the Teacher Training Course, however in the impugned proceedings a new reason has been assigned, stating that he has not passed Plus Two examination.

6. So far as the petitioner in W.P.No.21631 of 2014 (A.Peter) is concerned, his services was also terminated during May, 1996. as he did not secure 50% marks in Teacher Training Course in Kerala State. Aggrieved over the same, he moved this Court by filing W.P.No.16063 of 1996 and this Court while entertaining the writ petition granted an order of interim stay. Subsequently, the petitioner (A.Peter) appeared for improvement examination and secured 50% marks. The said writ petition was disposed of by this Court by order dated 26.12.2002 directing the respondents therein to evaluate the petitioner's certificate. Pursuant to the order passed by this Court, the impugned order has been passed citing the very same reason that the petitioner (A.Peter) did not pass Plus Two examination.

7. The learned counsel for the petitioners elaborately referred to the factual matrix and submitted that the reasons assigned in the impugned order is wholly untenable and submitted that the rejection of the petitioners' request for evaluation could not have been done on the ground stated in the impugned order. Further, it is submitted that the petitioners, who have acquired qualification before 01.07.1995 should have been treated differently and should not have been insisted to satisfy the revised requirements. It is submitted that at no point of time the respondents insisted for as condition precedent Plus Two qualification. The learned counsel for the petitioners submitted that petitioner R.Veeramuthu has passed Plus Two examination in 2009 and the petitioner A.Peter has passed Plus Two examination in 1995 i.e. before issuance of the Government Order.

8. The learned Additional Government Pleader, by referring to the counter-affidavit reiterated the factual averments and submitted that the Government had issued orders on 23.6.2014 stating that the petitioners have joined the Teacher Training Course without passing Plus Two examination, after passing 10th standard at the time of admission in to the Teacher Training Course. Therefore, their requests for evaluation was rightly rejected. Further, it is submitted that as per the rule in force in Tamil Nadu vide G.O.Ms.No.906, Education (U2) Department, dated 16.6.1987, the petitioners were not eligible to be admitted to the Teacher Training Course in the State of Tamil Nadu, as the petitioners have passed only 10th standard and did not acquire Plus Two qualification. Therefore, their certificates cannot be evaluated.

9. After hearing the learned counsel for parties and on a careful perusal of the materials placed on record, it is to be pointed out that the issue involved in these writ petitions is no longer res integra. The issue in question has already came up for consideration before the Hon'ble Division Bench of this Court in W.A.No.1744 of 2005, decided on 25.04.2007 (O.M.Jessymol v. The Director of Teacher's Training Research Education and another). The said appeal arose out of an order passed in W.P.No.2767 of 2002, dated 18.09.2003, wherein the certificate of the appellant therein was not evaluated for the reason that he has not secured the minimum marks in the Teacher Training Course and not passed Plus Two examination. After considering the contentions raised by the parties therein, the Hon'ble Division Bench pointed out that the appellant has not sought for admission to Teachers' Training College and has only applied for valuation of the certificate for the purpose of getting employment in the State of Tamil Nadu and it is not for the State to insist that a degree or course offered by

another State is inferior or substandard as to the ones offered in their State and this kind of treatment will not be in the general interest of the society since it will lead to a precedent that the candidates who have acquired qualification from a different State cannot apply for employment in the State of Tamil Nadu. The operative portion of the judgment reads as follows:-

"3. The appellant has completed her S.S.L.C. in the State of Nagaland and for the purpose of getting admission to Teachers' Training College in Nagaland, she is fully eligible. No doubt, in this State of Tamil Nadu, the minimum educational qualification is a pass in Plus Two with 50% aggregate marks. However, she is not seeking admission to Teachers' Training College and has only applied for valuation of the certificate for the purpose of getting employment in this State. It is not for the State to insist that a degree or course offered by another State is inferior or substandard as to the ones offered in their State. This kind of treatment will not be in the general interest of the society since it will lead to a precedent that candidates who have acquired qualification from a different State cannot apply for employment in this State."

The above said legal position set at rest the controversy raised in these writ petitions. Since the petitioners only seeks for evaluation of their Teacher Training Course certificate, the question of insisting upon them pass in Plus Two examination, which was not insisted by the State of Kerala as condition precedent for admission to Teacher Training Course does not arise and the same cannot be a reason to shut out the case of the petitioners and deny them evaluation of their training certificates.

10. Apart from the above, one another aspect, which is to be taken note of is that the petitioners were appointed in 1995 and have been working all along and receiving salary. The only impediment, which was pointed out earlier is that the petitioners have not secured 50% marks in the Teacher Training Course, which the petitioners have subsequently achieved by writing improvement examination and therefore, the said impediment no longer survives. After a long lapse of time a new ground is raised stating that the petitioners have not passed Plus Two examination before joining Teachers Training Course in Kerala State. At this distance of time, the said new ground cannot put against the petitioners to non-suit them and deny them their right to continue in employment and if the same is permitted, it would tantamount to be an unreasonable exercise on the part of the respondents. In the light of the above reasons, the petitioners are entitled to succeed.

11. Accordingly, the writ petitions are allowed and the impugned order is set aside and the 3rd respondent shall evaluate the petitioners Teacher Training Course certificates and pass orders on merits and in accordance with law within a period of two months from the date of receipt of a copy of the order and on receipt of such order from the 3rd respondent, the respondents 2, 4 and 5 shall pass appropriate orders within a period of two months thereafter. No costs. Consequently, the connected M.Ps. are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.
2. The Director of Elementary Education,
College Road, Chennai-600 006.
3. The Director,
State Council for Education,
Research and Training,
College Road, Chennai-600 006.
4. The District Elementary Educational Officer,
Coimbatore, Coimbatore District.
5. The Assistant Elementary Educational Officer,
Kinathukadavu,
Coimbatore District. सत्यमेव जयते
6. The District Elementary Education Officer,
Coonoor, The Nilgiris District.
7. The Assistant Elementary Education Officer,
Kothagiri, The Nilgiris District.

+2cc's to Mr.S.N.Ravichandran, Advocate, S.R.No.21039
+1cc to the Government Pleader, S.R.No.21106

W.P.Nos.21630 & 21631 of 2014

KU(CO)
CA(27/04/2015)