

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-09-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.19425 of 2015

N.Thenmalar

.. Petitioner

vs

1.The State of Tamil Nadu  
rep. By its Secretary  
Education Department  
Fort St. George, Chennai 600 009

2.The Joint Director of School  
Education  
College Road  
Chennai 600 006

3.The District Educational Officer  
Dharmapuri District

4.The Headmaster  
Government Girls Higher Secondary  
School  
Danish Mission Middle School  
Adhiyaman Kottai  
Dharmapuri District

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records viz. proceedings of the second respondent in Na.Ka.No.107232/C2/E1/2013 dated 25.6.2015, and quashing the same and directing the respondents to retain the petitioner in the post of B.T. Assistant (Science) and consequently approve the appointment of the petitioner with effect from 26.3.2003, and extend all benefits both service and monetary thereto.

For Petitioner : Mr.S.Silambanan  
Senior Counsel  
for Mr.K.T.S.Sivakumar

For Respondents : Mr.V.Subbiah  
Special Government Pleader

ORDER

The petitioner would state that she belongs to Backward Class and through Employment Exchange, got appointed as a Secondary Grade Teacher on 27.1.1991, in Cholapuram Tiruvannamalai District, and after entering into service, she has passed B.Sc. Degree examination (Applied Chemistry) through Distance Education conducted by Annamalai University, during December, 2001, and thereafter, passed M.A. (English) in the year 2006, and subsequently, acquired

qualification in B.Ed. Degree and relevant entries have also been made in her Service Register.

2.The petitioner would further state that on her acquiring the above said qualifications, she is fully eligible to get promotion as B.T. Assistant (Science - Chemistry) and she was promoted as B.T. Assistant (Science) on 22.12.2003, and however, the petitioner, to her shock and surprise, was issued with a show cause notice dated 30.7.2014, stating that she possesses B.Sc. Degree in Applied Chemistry and it cannot be considered as equivalent to Chemistry subject and therefore, she should be reverted to the lower post of Secondary Grade Teacher, and she has submitted an explanation dated 7.8.2014, to the second respondent requesting not to revert her from the post of B.T. Assistant and however, without properly considering the explanation, the second respondent has reverted the petitioner from the post of Temporary B.T. Assistant (Science) to that of Secondary Grade Teacher, though she had put in 10 years of service as B.T. Assistant (Science). The petitioner challenging the legality of the said order, came forward to file this writ petition.

3.Mr.S.Silambanan, learned Senior Counsel, appearing for the petitioner, has drawn the attention of this Court to G.O.Ms.No.172, Higher Education (K2) Department, dated 30.9.2014, and would submit that though the first respondent has taken into consideration the recommendation of the Equivalence Committee and arrived at a decision that B.Sc. Degree in Applied Chemistry awarded by Annamalai University, cannot be considered as equivalent to B.Sc. Chemistry, the fact remains that the said Government Order is only prospective in nature, whereas the petitioner was temporarily promoted as B.T. Assistant (Science) as early as on 22.12.2003, and till the passing of the impugned order, she continued to hold the said post and took classes in Chemistry and also gained experience and therefore, after a long lapse of time, the order of reversion ought not to have been passed and prays for interference.

4.Per contra, Mr.V.Subbiah, learned Special Government Pleader, appearing for the respondents, has drawn the attention of this Court to the counter affidavit filed by the second respondent, and would submit that in terms of G.O.Ms.No.172, Higher Education (K2) Department, dated 30.9.2014, B.Sc. (Applied Chemistry) degree course is not equivalent to B.Sc. (Chemistry) degree course for the reason that as per the Tamil Nadu Educational Subordinate Service Rules, only those who have studied General Chemistry/Physics/Zoology/Botany in Degree Course as major subject, are only eligible to hold B.T. Assistant (Science) post in order to teach the pupil from 6<sup>th</sup> to 10<sup>th</sup> Standards in Government High School and Higher Secondary Schools, and the subject of Chemistry being taught to students from 6<sup>th</sup> to 10<sup>th</sup> Standards, is based on General Chemistry and since the petitioner is having the qualification of B.Sc. (Applied Chemistry), she cannot impart good and quality education in the subject of Chemistry, to the above said students and prays for dismissal of this writ petition.

5.This Court has carefully considered the rival submissions and also perused the materials placed before it.

6.The fact remains that the petitioner by virtue of her qualification, got temporary promotion as B.T. Assistant (Chemistry) on 22.12.2003, and continued to hold the post till the impugned order of reversion dated 25.6.2015, for nearly 12 years. As rightly contended by the learned Senior Counsel appearing for the petitioner, G.O.Ms.No.172, Higher Education (K2) Department, dated 30.9.2014, cannot be construed as prospective, as it is a settled position of law that the administrative orders/instructions cannot be given effect retrospectively. This Court can also take note of the fact that the petitioner had also gained experience by taking classes in Chemistry subject for students studying in 6<sup>th</sup> to 10<sup>th</sup> Standards, for nearly 12 years and therefore, she cannot be reverted to the post of Secondary Grade Teacher after nearly 12 years from the date of her earlier promotion.

7.This Court, taking into consideration the above special facts and circumstances and in the light of the long period of experience gained by the petitioner by taking classes as B.T. Assistant (Science), is of the considered view that the order of reversion is to be set aside.

8.In the result, the writ petition is allowed and the impugned order of reversion dated 25.6.2015, passed by the second respondent, is set aside and the second respondent is directed to give necessary posting to the petitioner in the post of B.T. Assistant (Science) and take necessary steps to give the approval of appointment in accordance with the relevant norms and regulations, and on doing so, shall extend all consequential benefits, as expeditiously as possible. No costs.

9.Since this order came to be passed on peculiar facts and circumstances of this case, it cannot be cited as a precedent in any other case.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To:

- 1.The Secretary to Government  
Education Department, Government of Tamil Nadu,  
Fort St. George, Chennai 600 009
- 2.The Joint Director of School  
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College Road  
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4.The Headmaster  
Government Girls Higher Secondary  
School  
Danish Mission Middle School  
Adhiyaman Kottai  
Dharmapuri District.

1 cc to Mr. K.T.S.Sivakumar, Advocate Sr.No.50430  
1 cc to Government Pleader.Sr.No.50551

nsv

W.P.No.19425 of 2015

bvr(co)  
pmk.30.9.2015



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