

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.3.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.17910 of 2014
and MP.Nos. 1 and 2 of 2014

K.Sasiregai

... Petitioner

Vs.

1. The Director of School Education,
College Road, Nungambakkam,
Chennai - 600 006
2. The Joint Director of School Education,
(Higher Secondary),
College Road, Nungambakkam,
Chennai - 600 006
3. The Chief Educational Officer
Namakkal, Namakkal District
4. The Headmaster
Government Higher Secondary School
Solasiramani, Paramathivellore T.k
Namakkal District

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified mandamus calling for the records in impugned order dated 28.06.2014 passed in proceeding O.Mu.No.2944/A6/2014 by the 3rd respondent and quash the same as illegal and unlawful and consequently directing the 3rd respondent to re-employ the petitioner till the end of the academic year 2014-2015 (31.05.2015) as P.G. Assistant (Tamil) Govt. Higher Secondary School, Solasiramani, Paramathivellore Namakkal District.

For Petitioner : Mr.V.Thirupathi

For Respondents : Mr.M.S.Ramesh
Additional Government Pleader

O R D E R

The petitioner was appointed as Post Graduate Assistant at Government Higher Secondary School, Solasiramani vide proceedings dated 22.8.2008. In the normal course, the petitioner would attain superannuation on 30.6.2014. The petitioner submitted an application for re-employment on the basis of the Government Order in G.O.Ms.No.1643 Education Department dated 27.10.1988. The application was rejected by the third respondent on the ground that the petitioner has not completed 10 years of service and as such, it would not be possible for her to continue till the end of the academic year, pursuant to the G.O.Ms.No.1643 Education Department dated 27.10.1988. The said order is under challenge in this writ petition.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader on behalf of the respondents.

3. There is no dispute that the initial appointment of the petitioner was only on 22.8.2008 and she joined on 27.8.2008. The petitioner in the normal course would retire on 30.6.2014. Since the retirement was after the commencement of the academic year, the petitioner availed the benefit of the Government Order in G.O.Ms.No.1643 Education Department dated 27.10.1988, which provides that in case, the teacher has satisfied the eligibility criteria, she is entitled to continue till the end of the academic year. The application submitted by the petitioner was rejected only on the ground that she was not having 10 years of continuous service. The third respondent has no case that the petitioner failed to satisfy the eligibility criteria as indicated in G.O.Ms.No.1643 Education Department, dated 27.10.1988.

4. The issue raised by the petitioner is no longer res integra in view of the earlier decision of this Court dated 08.11.2012 in WP.No.22377 of 2012. This Court made it very clear that there is no requirement to complete 10 years of service for availing the benefit of G.O.Ms.No.1643 Education Department dated 27.10.1988.

5. In view of the said order, the third respondent was not correct in rejecting the request made by the petitioner. Therefore, I am of the view that the petitioner is entitled to succeed.

6. In the result, the impugned order is set aside. The third respondent is directed to consider the request made by the petitioner for re-employment on merits and in the light of the order dated 08.11.2012 in WP.No.22377 of 2012. Such exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order.

7. The writ petition is allowed to the extent indicated above.
No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

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To

1. The Director of School Education
College Road, Nungambakkam
Chennai - 600 006
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(Higher Secondary)
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4. The Headmaster
Government Higher Secondary School
Solasiramani, Paramathivellore T.k
Namakkal District

+1cc to Mr.V.Thirupathi, Advocate, S.R.No.11626
+1cc to the Government Pleader, S.R.No.11856

W.P.No.17910 of 2014

JP (CO)
CA(06/03/2015)

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