

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.08.2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

Writ Appeal No.406 of 2012

I.Sutha

.. Appellant

Vs.

1. State of Tamil Nadu
rep.by its Secretary
School Education Department
For St.George, Chennai 9
2. The Director of Teachers' Education
Research and Training
College Road
Chennai-6
3. Tamilnadu Teachers' Recruitment Board
E.V.K.Sampath building
Chennai 6
4. The Chief Educational Officer
Pudukottai
5. The Headmaster
Government Higher Secondary School
Sadayampatti
Pudukottai District

.. Respondents

WRIT APPEAL filed under Clause 15 of Letters Patent against the order dated 13.2.2009 passed in W.P.No.22909 of 2006.

Petition filed Under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari Calling for the records relating to the impugned order dated 29.5.1997 in Na.Ka.No.12526/A2/97 passed by the fourth respondent and to quash the same and allow the applicant to continue as Secondary Grade Teacher with all monetary and other benefits which the petitioner is entitled to.

For Appellant : Mr.D.Muthukumar

For Respondents : Mr.C.Jagadeesh
Special Government Pleader
for R1, R2 and R4
No appearance for R3 & R5

JUDGMENT

(Judgment of the Court was delivered by
A.SELVAM, J)

This Writ Appeal has been directed against the order dated 13.2.2009 passed in W.P.No.22909 of 2006 by the learned Single Judge of this Court.

2. The appellant herein, as petitioner, has filed W.P.No.22909 of 2006, on the file of this Court under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order, dated 29.5.1997, in Na.Ka.No.12526/A2/97, passed by the fourth respondent and quash the same and consequently to allow the petitioner to continue as Secondary Grade Teacher with all monetary and other benefits, wherein the present respondents have been shown as respondents.

3. It is averred in the petition that the petitioner has studied Secondary Grade Teacher Training Course in Kerala and also obtained necessary Certificate and as per G.O.Ms.No.1251, dated 14.12.1992, the earlier procedure for selecting Secondary Grade Teacher has been modified and thereby permitted the persons, who studied Secondary Grade Teacher Training Course and obtained Certificate from other State, to take part in the competent examination and accordingly, the petitioner has taken part in the competent examination and secured proper marks and consequently, she has been selected and she joined duty on 2.8.1995 and all of a sudden on 29.5.1997, the fourth respondent herein has passed the impugned order, wherein specific direction has been given to the concerned Headmaster to relieve the petitioner from the post, after receipt of School liabilities and under the said circumstances, the present petition has been filed for getting the relief sought therein.

4. The learned Single Judge, after considering the divergent contentions raised on either side, has dismissed the writ petition by way of passing the impugned order and the same is being challenged in the present writ appeal.

5. The learned counsel appearing for the appellant/petitioner has befittingly drawn the attention of the

court to G.O.Ms.No.1251 dated 14.12.1992, wherein it has been explicitly stated to the effect that the previous procedure, existed in Tamil Nadu for recruiting Secondary Grade Teacher, has been modified and consequently permits the persons, who studied Secondary Grade Teacher Training Course from other States. Under such circumstances, the appellant/petitioner has been allowed to participate in the competitive examination and she secured requisite marks and therefore, she has been appointed and she joined duty on 2.8.1995 and without assigning proper reason, the fourth respondent has passed the impugned order and in order to quash the same, the appellant/petitioner has filed the writ petition No.22909 of 2006, but the learned Single Judge, without considering the contentions put forth on the side of the appellant/petitioner has erroneously dismissed the same and therefore, the order passed by the learned Single Judge is liable to be set aside.

6. Per contra, the learned Special Government Pleader appearing for the respondents 1, 2 and 4 has contended that the petitioner has not secured the requisite marks and further the petitioner has stayed away from duty without giving proper intimation and after considering the overall circumstances of the case, the learned Single Judge has rightly dismissed the petition and therefore, the dismissal order passed by the learned Single Judge does not require any interference.

7. For better appreciation, it would be more useful to look into the reason mentioned in the impugned order dated 29.5.1997, wherein at paragraph No.1, it is stated like thus:

"As per the letters in reference Nos.1 and 2, the Certificate obtained in Secondary Grade Teacher Training of other State by I.Sutha, Secondary Grade Teacher, Government Higher Secondary School, Sadyampatti was not evaluated by the Department and that the Administrative Tribunal had found as not eligible, the office are of the opinion that her remaining in the service will create many problems and that she should be removed from service."

8. Even from a cursory look of the materials found in paragraph No.1 of the impugned order, the Court can easily deduce that the fourth respondent has attempted to say that the Secondary Grade Teacher Training Certificate obtained by the petitioner, at the time of selection, has not been evaluated properly by the concerned Department. Except the words mentioned supra, in the impugned order it has not been specifically stated on what ground or for what reason, at the time of selection, the certificate obtained by the petitioner has not been properly evaluated/valued by the concerned Department.

9. Therefore, it is quite clear that in the impugned order, no specific reason has been mentioned for dismissing the appellant/petitioner.

10. It is true that in the order passed by the learned Single Judge, it has been mentioned to the effect that the petitioner has stayed away from duty. It is seen from the records that such occurrence has taken place after issuance of the impugned order dated 29.5.1997 and the same cannot be looked into.

11. As taunted earlier, in the impugned order, no specific reason has been given. However, it has been simply mentioned that the certificate of the petitioner has not been evaluated properly by the Department. The reason given in the impugned order is not at all sufficient for coming to a conclusion that the appellant/petitioner is liable to be dismissed from service. Since in the impugned order no proper/specific reason has been given, this Court is of the view that the impugned order itself suffers from infirmity and due to that, the same is liable to be quashed.

12. The learned Special Government Pleader appearing for the respondents 1, 2 and 4 has also made an abortive attempt to the effect that the appellant/petitioner has not secured requisite marks. If that be the case, definitely she would not have been selected and appointed as Secondary Grade Teacher. Therefore, the last attempt made on the side of the respondents also goes out without merit.

13. As pointed out earlier, the impugned order has not stated any proper/specific reason for dismissing the appellant/petitioner. Further, the reason mentioned in the impugned order is not at all sufficient. Under such circumstances, the reliefs sought in the writ petition can easily be granted.

14. The learned Single Judge, without considering the fact that the impugned order itself suffers from infirmity, has erroneously dismissed the writ petition. In view of the discussions made earlier, this Court has found acceptable force in the contentions put forth on the side of the appellant/petitioner and altogether, the present Writ Appeal is liable to be allowed.

In fine, the Writ Appeal is allowed without cost. The order dated 13.2.2009 passed in Writ Petition No.22909 of 2006 by the learned Single Judge of this Court is set aside and Writ Petition No.22909 of 2006 is allowed without cost and the impugned order dated 29.5.1997 passed by the fourth respondent is quashed and the appellant/petitioner is entitled to get other consequential benefits. The respondents are directed to give effect to this order, within a period of two months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
School Education Department,
For St.George, Chennai 9.
2. The Director of Teachers' Education,
Research and Training,
College Road, Chennai-6.
3. Tamilnadu Teachers' Recruitment Board,
E.V.K.Sampath building,
Chennai 6.
4. The Chief Educational Officer,
Pudukottai.
5. The Headmaster,
Government Higher Secondary School,
Sadayampatti,
Pudukottai District.

+1cc to Mr.D.Muthukumar, Advocate Sr.46579

W.A. No.406 of 2012

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srg 07/09/2016