

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-11-2016

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

WRIT PETITION No.16556 of 2010

M.Lakshmi Jayapradha

... Petitioner

-Vs-

1. Union of India represented by
Government of Pondicherry
through its Secretary to Government
Education Department, Pondicherry
2. The Director of School Education
Perunthalaivar Kamaraj Educational
Complex, 100 Feet Road
Anna Nagar, Pondicherry
3. The Registrar
Central Administrative Tribunal
Madras Bench
Chennai

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus, to call for the records of respondent No.3 in O.A.No.200/2008 dated 14.09.2009 and to quash the same and consequently to direct the respondent No.2 to appoint the petitioner to the post of Preprimary School Teacher with effect from the date on which the other candidates have been appointed with all other consequential relief, including arrears of wages, seniority etc.

For Petitioner : Ms.A.Lilly Victoria
for Mr.V.Ajayakumar

For respondents : Mr.Syed Mustafa for R1 and R2
Government Pleader (Pondy)

ORDER

(delivered by S.MANIKUMAR, J.)

Challenge in this writ petition is to an order made in O.A.No.200/2008 dated 14.10.2009, by which, the Central Administrative Tribunal, Madras Bench, declined to quash order No.30/21/DSE/Estt-1/D3/2007-08 dated 28.02.2008 passed by the

2nd respondent and further declined to direct the official respondents to consider the case of the petitioner for appointment as Pre primary School Teacher in the vacancies notified by advertisement dated 26.09.2006 keeping in view G.O.Ms.(RT) No.172, School Education Department, Government of Tamil Nadu dated 31.10.2002 and consequently appoint the petitioner with all other consequential benefits.

2. Facts leading to the filing of the writ petition are that the petitioner is native of Yanam, Union Territory of Pondicherry. She has acquired B.A. degree under Distant Education programme from Andhra University. Thereafter, she acquired a certificate in Early Childhood Care and Education from International Montessori Kindergarten and Nursery Training Centre, Chennai. She underwent a one year course in Advanced Diploma in Early Childhood and Education in continuation of the diploma course of six months conducted by the very same training centre during the academic year 2004 & 2005 and secured I Class.

3. Pursuant to the advertisement dated 26.09.2006, issued by the respondents, which carries a consolidated salary of Rs.2,500/- per month, she applied for the post of Pre Primary School Teacher. Following were the educational requirements for the said post.

- (i) A pass in SSLC (X Standard);
- (ii) One year certificate/diploma in Early Childhood Care and Education (ECCE) or equivalent; and
- (iii) Should have studied the respective regional language as one of the subjects as one of the subjects in SSLC or +2 examinations.

4. It is the further submission of the petitioner that when she was called for an interview and verification of certificate, the respondents rejected her candidature, vide dated 28.02.2008, impugned before the Tribunal, stating that the certificate in respect of Montessori, Kindergarten & Nursery Teachers' Training Course issued by International Montessori Kindergarten and Nursery Training Centre, Mylapore, Chennai is not a recognised qualification, as the same was not issued by a Board or university.

5. It was the further contention of the learned counsel for the petitioner before the Tribunal that since the advertisement dated 26.09.2006 did not specifically mention that certificate/diploma in Early Childhood Care and Education (ECCE) should be from a recognised Board or University, certificate in Montessori, Kindergarten & Nursery Teachers' Training Course produced by the petitioner should have been accepted for the purpose of satisfying the requirement of educational qualification. It was the further contention of the learned counsel for the petitioner that the Government of Tamil Nadu has passed an order in G.O.Ms. (RT) No.172 dated

31.10.2002 accepting certificates of similarly placed persons for appointment in Government of Tamil Nadu and hence the petitioner has sought for the relief as prayed for.

6. The respondents herein have filed their reply statement stating that there were seven vacancies in the grade of Pre Primary Teacher, as per advertisement dated 26.09.2006. Twenty nine candidates applied for the said post, including the petitioner herein. Out of which, twenty seven candidates were called for the interview and verification of certificates etc. On scrutiny, only three candidates were found eligible to be appointed. Rest of the candidates including the petitioner were rejected on the ground that the course as required vide advertisement dated 26.09.2006 i.e. certificate/diploma in Early Childhood Care and Education (ECCE) was not recognised or affiliated by Board of Government of Examinations or recognised by University cannot be accepted.

7. It was the further submission of the learned counsel for the respondents that petitioner's contention that in the aforesaid advertisement dated 26.09.2006, there was no mention of the certificate/diploma in Early Childhood Care & Education (ECCE), should be from any Board or recognised by any university, cannot be accepted, for the reason that for appointment under the Government, any certificate/diploma/degree should be only from a Board or recognised institution.

8. Adverting to the above, vide order dated 30.06.2016, the Tribunal disposed of the Original Application No.310/01417/2015 as hereunder:

"7. When a notification was issued for any appointment under the government prescribing certain educational qualifications such educational qualifications should be from a Board of Examinations or from a recognised institution. Obviously the applicant has acquired the Montessori, Kindergarten & Nursery Teachers Training Course from International Montessori Kindergarten & Nursery Training Centre, Mylapore, Chennai which is not a recognised institution either by the Government or by Board or University which according to the applicant is an equivalent course prescribed in the advertisement dated 26.09.2006. Moreover on perusal of the aforesaid certificate the same was issued in the name of Director, Course Director or Principal and not in the name of any college or institution recognised by any Government agency. The GOMS(RT) No.172 dated 31.10.2002 issued by the Government of Tamil Nadu for giving benefit of service to the candidates who have undergone training before 1995 is applicable only for appointment under the Government of Tamil Nadu and is not applicable for appointment under the Government of Pondicherry. An executive order

can be challenged only if there is any arbitrariness or malafide on the part of the respondents in selecting the candidates for appointment under the government. The applicant has not produced any proof that the impugned order dated 28.2.2008 was issued with a malafide attitude or it suffers from arbitrariness. Taking into account all the above facts we do not find any merit in the O.A. The O.A. has to be dismissed.

8. However, liberty is granted to the applicant to apply for the post of Pre Primary Teacher under the Government of Puducherry for which advertisement/notification may be issued provided the applicant possesses the requisite educational qualification as per law.

9. The O.A. is accordingly dismissed. No costs."

9. Assailing the correctness of the order, Ms.A.Lilly Victoria, learned counsel for the petitioner, submitted that the Tribunal did not consider the fact that the order impugned has no connection with advertisement dated 26.9.2006, because, nowhere in the said notification, it was stated that certificate should be obtained from any particular Board or university. It is the further submission of the learned counsel for the petitioner that the Government has not produced any letter to show that one year certificate should be obtained from any Board or university and without production of any rule, the Government has come to an erroneous conclusion that the certificate was not issued by any Board or University, especially when the certificate issued by other institutes in Pondicherry has been accepted for appointment.

10. Earlier when the matter came up for hearing, upon perusal of the certificate issued by International Motessori Kindergarten and Nursery Training Teacher's certificate, it was noticed that the certificate issued by the said institute and relied on by the petitioner for seeking appointment, as Pre Primary School Teacher in Yanam Region, is not recognised by the Government. Petitioner has also not produced any material to that effect. However, a contention was raised that the selected candidates also did not produce certificates from recognised institutes. Therefore, we directed Mr.R.Syed Mustafa, learned Special Government Pleader, to produce the records.

11. Based on the files, Mr.R.Syed Mustafa, learned Special Government Pleader for the official respondents submitted that certificates produced by the selected candidates, were issued by institutes, recognised by the Government. He further submitted that for seven posts

notified, there were 27 applications and three candidates were selected based on the educational qualification and certificates issued by the competent authorities. The institutes are also recognised. He further submitted that three persons were engaged on contract basis on a consolidated pay of Rs.2,500/-.

12. We have perused the certificates. Though Ms.Lilly Victoria, learned counsel for the writ petitioner submitted that the notification issued for recruitment of Pre Primary School Teachers, did not indicate that the candidates should have studied, in an institution recognised by the Government, but merely stated as, a pass in SSLC examination (10th standard) and one year certificate/diploma in Early Childhood Care and Education (ECCE) or equivalent and therefore, the respondents ought to have considered the certificate issued by International Montessori Kindergarten and Nursery Training Centre, Chennai, this court is not inclined to accept the said contention for the reason that whenever a notification prescribes eligibility criteria, certificates required to be produced, the same should be, issued by a competent authority and should be from institutions recognised by the Government. Certificates obtained from unrecognised institution cannot be considered for selecting a candidate for the post notified. There are no materials to prove that the institution, which issued the certificate and relied on by the petitioner, is recognised by the Government or Board, as the case may be. When the institution itself is not recognised by the government/competent authority, then the certificate issued by the said institution, does not have any credentiality.

13. For the reasons stated supra, we do not find that the Tribunal has committed any material irregularity, in declining the prayer sought for.

Writ petition is dismissed. However, there shall be no order as to cost.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

asr

To

1. The Secretary to Government
Union of India,
Government of Pondicherry
Education Department, Pondicherry

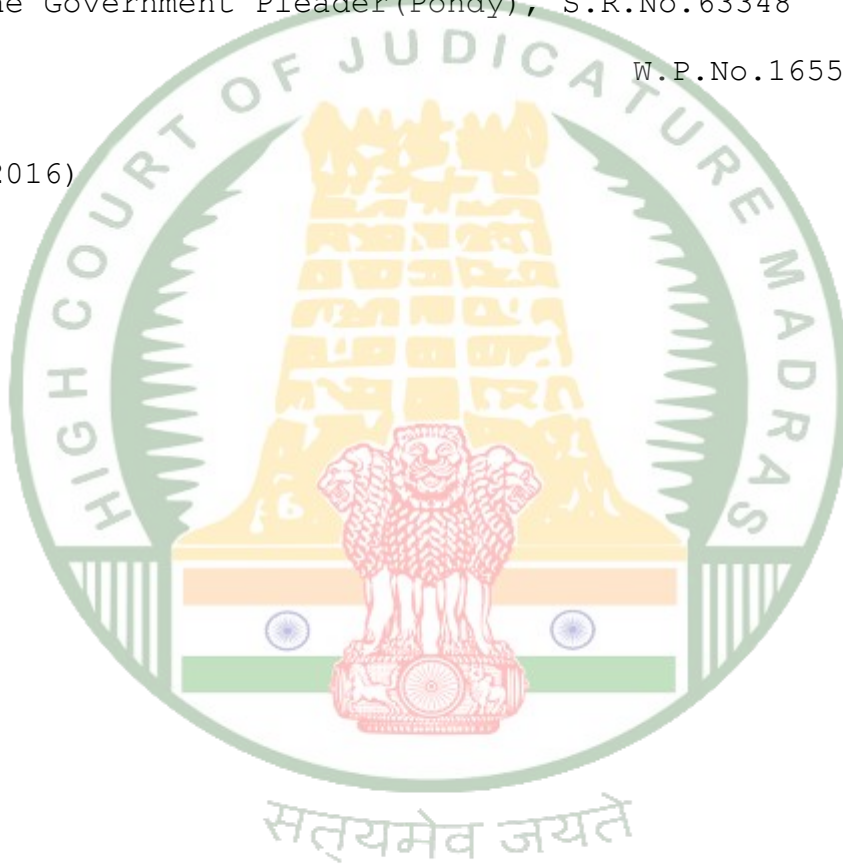
2. The Director of School Education
Perunthalaivar Kamaraj Educational
Complex, 100 Feet Road
Anna Nagar, Pondicherry

3. The Registrar
Central Administrative Tribunal
Madras Bench
Chennai

+1cc to the Government Pleader(Pondy), S.R.No.63348

W.P.No.16556 of 2010

CA(CO)
CA(09/12/2016)



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