

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.32909 of 2017 and WMP.No.36285/2017

R.Thahira

.. Petitioner

-vs-

1. The Director of Elementary Education,
DPI Campus, College Road, Chennai-6.
2. The District Elementary Educational Officer,
Dharmapuri District, Dharmapuri.
3. The Assistant Elementary Educational Officer,
Palacode, Dharmapuri District.
4. A.Rasheeda Begum .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of 4th respondent in Proceedings Na.Ka.No.3310/A1/2015 dated 07.12.2017 and quash the same and consequently, direct the respondents to allow the petitioner to serve as Middle School Headmaster in Panchayat Union Middle School (Urdu), Palacode, Palacode Union, Dharmapuri District.

For Petitioner : Ms.T.Dharani

For Respondents : Mr.R.A.S.Senthilvel,
1 to 3 Additional Government Pleader

ORDER

The Writ Petition has been filed challenging the impugned Proceedings in Na.Ka.No.3310/A1/2015 dated 07.12.2017 passed by the District Elementary Educational Officer, Dharmapuri District, Dharmapuri, thereby reverting the petitioner to the post of B.T. Assistant and promoting the 4th respondent to the post of Middle School Headmistress and to quash the same on the basis of the direction issued by this Court in W.P.No.9013/2013 dated 24.07.2014.

2. According to the petitioner, she was appointed as B.T.

Assistant (Urdu) on 13.12.2004 and her services were regularised in the said post w.e.f. 31.5.2006 and she has successfully completed her probation on 31.5.2008. In the meanwhile, the Panchayat Union Primary School, Palacode was upgraded as Panchayat Union Middle School w.e.f. 20.08.2004 and due to the retirement vacancy in the post of Middle School Headmaster in the said school on 01.06.2008, the petitioner was promoted to the said post by the 2nd respondent by his proceedings dated 10.07.2013 and she joined in the said post on 11.07.2013 F.N.

3. The further case of the petitioner is that the 4th respondent filed W.P.No.9013/2013 challenging the proceedings of the Director of Elementary Education dated 13.09.2011 wherein it has been stated that 10+2+3 pattern alone should be included in the panel for promotion and since she has not studied +2, her name was not included in the panel for promotion for the year 2013. This Court, by an order dated 24.07.2014 allowed the said Writ Petition holding that the Diploma Course in Teacher Education studied by the 4th respondent is equivalent to +2 qualification. In compliance of the order of this Court, the 4th respondent was promoted as Middle School Headmistress w.e.f. 01.11.2014 in Panchayat Union Middle School, Soodanur.

4. It is also the case of the petitioner that the 1st respondent herein by proceedings dated 30.11.2017 issued a Show Cause Notice to the petitioner to submit her explanation for reverting her from the post of Middle School Head Master to the post of B.T. Assistant and the petitioner has also submitted a detailed explanation stating that the 4th respondent is not at all eligible to be promoted to the post of Middle School Headmistress. But, without considering the same, the impugned order dated 7.12.2017 came to be passed reverting the petitioner from the post of Middle School Headmistress to the post of B.T. Assistant, Panchayat Union Elementary School, Marandapalli (Urdu), Palacode Union and promoted the 4th respondent as Middle School Headmistress in Panchayat Union Middle School, Palacode (Urdu), Palacode Union. Hence the present Writ Petition.

5. Heard the learned Counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3.

6. First of all, it appears that the impugned order came to be passed based on the direction issued by this Court in W.P.No.9013/2013 dated 24.07.2014 which was filed by the 4th respondent herein, challenging the impugned proceedings issued by the 2nd respondent therein dated 13.9.2011 and to quash para 22 of the said impugned proceedings in so far as the 4th respondent herein is concerned and to issue consequential direction to the respondents to promote her as Middle School

Headmistress (Urdu) from the year 2013 onwards on par with her junior Thaheera, petitioner herein, construing 2 year Diploma in Teacher Education as equal to +2 under the control of respondents herein. In the said Writ Petition, this Court has passed an order dated 24.07.2014 in which in paragraphs 6 and 7, it has been held as follows:

'6. I am unable to accept the said contention of the learned Additional Government Pleader. In the judgments rendered in W.P.No.15296/2013 dated 11.06.2013, the learned Judge considered all these aspects and also considered G.O.Ms.No.107, P & AR Department, dated 10.8.2009 and following the orders passed in W.P.Nos.24495 to 24497/2012, allowed the writ petition and held that persons who studied Diploma in Teacher Education Course without undergoing +2 is also eligible for promotion as B.T.Assistant. The same was also followed by me in W.P.No.17867 of 2014 and by another learned Judge of this Court in W.P.No.10729 of 2013.

7. Hence, the contention of the learned Additional Government Pleader cannot be accepted and the writ petition is allowed and paragraph No.22 of the proceedings in Na.Ka.No.12118/D1/2011 dated 13.09.2011 issued by the 2nd respondent to consider the case of the petitioner in the light of the orders passed in the above writ petitions without holding that two years Diploma in Teacher Education is not equivalent to +2 examination. Consequently, the connected Miscellaneous Petition is closed. No costs.'

This Court finds no semblance of infirmity in the impugned order passed by the 2nd respondent. Further, the petitioner approached this Court after a lapse of 3 ½ years from the passing of the final orders in W.P.No.9013/2013 by this Court as stated above and she has not chosen to file any appeal against the said order. Hence, the same has become final. Based upon the same, the 2nd respondent has passed the order which is impugned in the present Writ Petition. Therefore, the Writ Petition is not maintainable.

7. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

tsi

Sub Assistant Registrar

To

1. The Director of Elementary Education,
DPI Campus, College Road, Chennai-6.
2. The District Elementary Educational Officer,
Dharmapuri District, Dharmapuri.
3. The Assistant Elementary Educational Officer,
Palacode, Dharmapuri District.

+1cc to Mr.T.Venkatesan, Advocate, S.R.No.90072

+1cc to M/s.Venkatesan, Advocate, S.R.No.90292

+1cc to the Government Pleader, S.R.No.90851

W.P.No.32909/2017

KAN(CO)
RRK(11/01/2018)



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