



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2017

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.(MD)No.6542 of 2011 and
M.P.(MD)No.2 of 2011

P.Ganesan

... Petitioner

Vs.

- 1.The Director of Elementary Education,
Director of Elementary Education Office,
DPI Block, College Road, Chennai - 6.
- 2.The District Elementary Educational Officer,
O/o. District Elementary Education Officer,
Karur, Karur District.
- 3.The Assistant Elementary Educational Officer,
O/o. Assistant Elementary Education Officer,
Thanthonimalai Post, Karur District.

4.A.Chandramohan

... 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 pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.1082/A3/2011, dated 06.06.2011, on the ground that the same is arbitrary and illegal, and quash the same and consequently, direct the respondents to place the petitioner's name in the seniority list.

For Petitioner : Mr.K.Balasundharam
For Respondents : Mr.K.Guru (for R1 to R3)
Additional Government Pleader
No Appearance (for R4)

O R D E R

The petitioner has filed this writ petition seeking issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.1082/A3/2011, dated 06.06.2011, on the ground that the same is arbitrary and illegal, and quash the same and



consequently, direct the respondents to place the petitioner's name in the seniority list.

2. Briefly stated the facts of the present case are as under:

The petitioner was appointed as Junior Secondary Grade Teacher in Panchayat Union Middle School, Kadavur on 28.09.2004 on consolidated pay. Thereafter, he was made permanent and paid regular time scale of pay.

3. It is the case of the petitioner that he had obtained permission from the 2nd respondent on 19.04.2007, vide proceedings Mu.Mu.1292/Aa4/2006, to pursue B.Ed. Degree. Likewise, he also obtained permission from the 2nd respondent on 14.03.2008, vide proceedings Oo.Mu.3430/Aa4/2007, to pursue B.Sc. Maths Degree. By virtue of the permission so granted, the petitioner successfully completed the said degrees from the Tamil Nadu Open University. The provisional certificates submitted by the petitioner in respect of the aforesaid two degrees were entered into his service register on 05.01.2009 and 05.06.2010 respectively.

4. It is the plea of the petitioner that on and from 05.06.2010, he has become eligible for inclusion in the list of Graduate Teachers, but his name was not included in the list of Thanthonimalai Panchayat Union Teacher Seniority List of the year 2011. Therefore, the petitioner approached the 3rd respondent, who directed the petitioner to give a representation. Thereafter, the petitioner submitted his representation on 06.05.2011. On enquiry, the petitioner was informed by the 3rd respondent that his qualification of B.Sc. (Maths) cannot be considered, as he had completed both degrees in the same University during the same academic period.

5. It is the case of the petitioner that the 4th respondent, who is similarly placed as that of the petitioner, had also completed double degree in the same academic period, but his name has been included in the seniority list and he was also promoted and, therefore, non-consideration of the name of petitioner is arbitrary and illegal.

6. The petitioner, thereafter, submitted a representation on 05.06.2011 to respondents 1 and 2 and in response thereof, the 2nd respondent, by proceedings dated 06.06.2011, which is impugned in this writ petition, rejected the request of the petitioner on the ground that the petitioner had completed degree courses in the same academic year and in the same University.



7. Assailing the said order, the present writ petition is filed for the relief stated supra.

8. In the counter affidavit filed by the 2nd respondent, it is averred that since the petitioner had completed two degrees in the same academic period and that too from the same University, his name cannot be included in the seniority list and the same is against the Government Order dated 08.04.2011.

9. I heard Mr. K. Balasundharam, learned counsel appearing for the petitioner and Mr. K. Guru, learned Additional Government Pleader appearing for the respondents 1 to 3 and perused the documents filed in support of the petition and also the counter affidavit. There was no representation on behalf of the 4th respondent.

10. A perusal of the records shows that the petitioner had obtained prior permission from the 2nd respondent on 19.04.2007 and 14.03.2008 for pursuing B.Ed. and B.Sc. Maths Degrees respectively. It is also not disputed that the qualification so acquired by the petitioner has been entered in his service register. Entries in service register are made carefully after verifying the original certificates. When once such qualification acquired is entered into the service register, it is not known why the same is not considered for inclusion of the name of the petitioner in the seniority list.

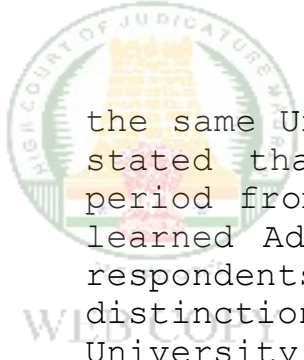
11. In the case of, The Secretary, School Education Department and others v. L. Kavitha (Judgment dated 24.06.2016 made in W.A.No.1098 of 2012), a Division Bench of this Court accepted the contention of the learned counsel for the employee that there is no hard and fast rule rejecting the degrees obtained simultaneously and, in fact, upheld the validity of such degrees obtained simultaneously, even though from different Universities.

12. In the counter affidavit, it is averred as under:

"4. ... It is submitted that, in this regard a G.O. bearing No.26081/rp3/ 1/2011 dated 08.04.2011 has some directives for the promotion of a teacher for the post of graduate teacher. As per the said G.O., if any teaching staff who is seeking for the promotion of graduate teacher must completed both the B.Sc., (Maths) and B.Ed. Courses in the same Academic period, but in different Universities."

<https://hcservices.ecourts.gov.in/hcservices/>

It is the case of the 2nd respondent that as per the Government Order dated 08.04.2011, two degrees should not be obtained from



the same University during the same academic period. It is further stated that if two degrees are obtained in the same academic period from two different Universities, it is valid. However, the learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 is unable to explain the rationale behind such distinction of studying in different Universities and the same University. Moreover, the said Government Order dated 08.04.2011 is not placed before this Court. Therefore, in the light of the decision of the Hon'ble Division Bench of this Court in The Secretary, School Education Department and others v. L.Kavitha, referred supra, this Court finds no justification in the stand taken by the respondent authorities for non-inclusion of the name of the petitioner in the seniority list on the grounds stated supra.

13. Apropos the allegations of the petitioner that the 4th respondent, who was similarly placed, was considered for promotion based on two degrees obtained from the same University during the same academic period, there is not a whisper in the counter affidavit denying the said allegation. This only strengthens the case of the petitioner that he had been discriminated.

14. In the result:

(a) this writ petition is allowed and the order passed by the 2nd respondent in Na.Ka.No.1082/A3/2011, dated 06.06.2011, is set aside;

(b) the respondent authorities are hereby directed to include the petitioner's name in the seniority list in the appropriate place;

(c) the said exercise shall be done by the respondent authorities within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

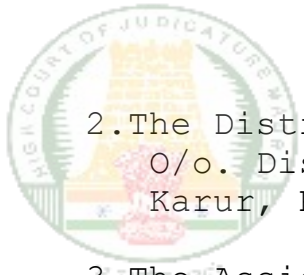
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar.

To

1. The Director of Elementary Education,
Director of Elementary Education Office,
DPI Block, College Road, Chennai - 6.



2.The District Elementary Educational Officer,
O/o. District Elementary Education Officer,
Karur, Karur District.

3.The Assistant Elementary Educational Officer,
O/o. Assistant Elementary Education Officer,
Thanthonimalai Post, Karur District.

+1CC to Mr.K.Balasundharam, Advocate, SR.No.11752

order made in
W.P. (MD) No.6542 of 2011
and
M.P (MD) No.2 of 2011
01.03.2017

vsa/skn
AM/SV MMS/SAR 4/09.10.2017/5P/5C