



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2017

CORAM :

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THE HONOURABLE MR.JUSTICE R.SUBRMANIAN

Writ Petition(MD)No.1899 of 2013 and
M.P(MD)No.1 of 2013

R. Barathy

... Petitioner

Vs.

1. The Director of Elementary Education,
E.V.K.Sampath Building,
College Road, Nungampakkam,
Chennai-06.
2. The District Educational Officer,
Madurai District,
Madurai-02.
3. The Secretary to Government,
School Education Department,
Chennai-09.
4. The Chief Educational Officer,
Madurai District.
5. The Secretary,
National Co-operative Sugar Mills
Higher Secondary School,
Alanganallur, Madurai District.

(R3 to R5 impleaded as per order of this
Court made in M.P(MD)No.1 of 2014, dated 23.4.2014)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the respondents to regularize the Petitioner in the post of full-time Secondary Grade Pre-Vocational Instructor (Craft Teacher) from the date of her approval in the post of Part-time Craft Teacher i.e., 06.06.1984 as done to similarly placed teachers who were regularized in pursuance of G.O.Ms.N0.224, Education, Science and Technology Department, dated 24.03.1994 and her juniors in pursuance of G.O.Ms.N0.35 School Education (VE) Department, dated 09.02.2007 and grant the Petitioner the consequential monetary and promotional service benefits within a stipulated time fixed by this Court.



For Petitioner : Mr.V.Panneerselvam
for M/s.M.Sridharan
For Respondents 1 to 4 : Mr.Aayiram K. Selva Kumar
Government Advocate
For Respondent-5 : No appearance

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ORDER

The Petitioner seeks for a Writ of Mandamus directing the respondents to regularize her service in the post of full-time Secondary Grade Pre-vocational Instructor(Craft Teacher) from the date of approval in the post of part-time Craft Teacher i.e., on 6.6.1984, as done to similarly placed teachers who were regularized in pursuance of G.O.Ms.N0.224, Education, Science and Technology Department, dated 24.03.1994 and her juniors in pursuance of G.O.Ms.N0.35 School Education (VE) Department, dated 09.02.2007 and grant the Petitioner the consequential monetary and promotional service benefits.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The Petitioner had passed S.S.L.C in the year 1975 and she had also completed Technical examinations Higher Grade in Embroidery and also in Needle work and Dress-making in the year 1976. She has also obtained Technical Teachers Certificate in Sewing in the year 1984. She was appointed as part-time Craft Teacher in the fifth respondent/school. The appointment of Craft Teacher was on 6.6.1984. On 5.9.1989, while the school was upgraded as High School, the Petitioner was also absorbed by the Inspector of Schools, Madurai. While things stood thus, the Government issued G.O.Ms.No.224, dated 24.3.1994 to appoint part-time pre-vocational Instructors who are qualified to hold the post of full-time pre-vocational Instructors as full-time Pre-vocational Instructors by giving three months training. The training was to be conducted in three phases.

4.According to the Petitioner, orders had been passed absorbing part-time pre-vocational instructors as full-time Pre-vocational Instructors from the date of their regular appointment on a time scale of pay. Unfortunately the Petitioner was not sent for training and she is going to attain the age of superannuation on 24.5.2017.

5.The fourth respondent filed a counter affidavit, wherein, it is stated that since the Petitioner had not undergone the three months training as contemplated under G.O.Ms.No.224, dated 24.3.1994, she is not entitled to be regularized. It is not in dispute that the Petitioner is qualified for appointment to the post



of full-time Craft Teacher even on the date when she was appointed as a part-time Craft Teacher.

6. Considering a similar case in ***I. Siriya Pushpam .vs. The Director of Elementary Education, Chennai-6 and two others reported in 2012(1) CWC 164***, this Court has held that once the Petitioner is qualified to hold the post of Craft Teacher on a regular basis, rejection of her claim on the ground that she had not undergone the refresher course is not correct. This Court has also pointed out that once the Petitioner has the qualifications prescribed under the Rules the requirement making it mandatory for the Petitioner to undergo the refresher course or a training, cannot be put against her.

7. The Petitioner who has worked in a part-time post on a meagre salary of 220/- p.m for almost more than three decades. It is rather saddening to note that the Government which should be a model employer has encouraged employment of persons as part-time teachers on a meagre salary of less than Rs.10/- per day, even in the 21st century. As pointed out by this Court, the Government Order namely G.O.Ms.No.244, which prescribes three months training does not have any statutory backing. The fixing of a refresher course or a training can be done in the event of Government deciding to accommodate any person who is not qualified in accordance with the rules. In the case on hand, the petitioner was fully qualified for appointment to the post of full-time Craft Teacher in the year 1984 and she was appointed as part-time Craft Teacher.

8. Therefore the Writ Petition is allowed and a Writ of Mandamus is issued directing the authorities concerned to consider the claim of the Petitioner for regularization in terms of the statutory rules governing the service conditions. It is also made clear that the authorities concerned shall consider the request of the Petitioner keeping in view the long service rendered by the Petitioner for almost 35 years on a meagre and consolidated salary of Rs.220/- p.m. The authorities while considering the claim of the Petitioner may also bear in mind the power under Section 20(3) which enables relaxation of any rule to enable up-gradation of the Petitioner from part-time to full-time Craft Teacher. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar



To

1. The Director of Elementary Education,
E.V.K.Sampath Building,
College Road,
Nungampakkam,
Chennai-06.
 2. The District Educational Officer,
Madurai District,
Madurai-02.
 3. The Secretary to Government,
School Education Department,
Chennai-09.
 4. The Chief Educational Officer,
Madurai District.
- + 1 CC TO Mr.M.SRIDHARAN, ADVOCATE IN SR No. 16258

VSN

TE/JC/SAR-III : 04/04/2017 : 4P/6C

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