



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Order Reseved on 2.12.2016 order delivered
DATED: 30.01.2017

WEB COPY

Coram:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. (MD) No.6267 of 2013
and
M.P. (MD) No.2 of 2013

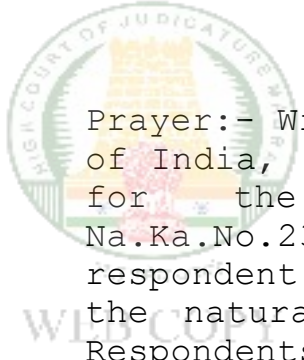
P.Ilayaraja

.. Petitioner

-Vs-

- 1.The Secretary to Government,
School Education Department,
Secretariat,
Chennai - 600 009.
- 2.The Member Secretary,
Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Building,
Chennai-600 006.
- 3.The Director,
Elementary Education Department,
College Road, Chennai - 600 006.
- 4.The Director,
Teacher Training Institutions,
College Road,
Chennai - 600 006.
- 5.The Joint Director (Personnel),
Directorate of Government Examinations,
Chennai - 600 006.
- 6.The District Employment Officer,
District Employment Office,
Dindigul.
- 7.The Principal,
Umayal Teacher Training Institute,
Ashtaburam,
Theni District - 625 531.

.. Respondents



Prayer:- Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned proceedings in Na.Ka.No.2323/Aa4/2012 dated 13.03.2013, passed by the 2nd respondent and quash the same as illegal, arbitrary and against the natural justice and equity and consequently to direct the Respondents 1 to 4 to appoint the petitioner to the post of Second Grade Teacher under the category of Schedule Caste Ex-Servicemen Quota at par with similarly appointed candidates within stipulated time.

For Petitioner : Mr.P.Krishnasamy

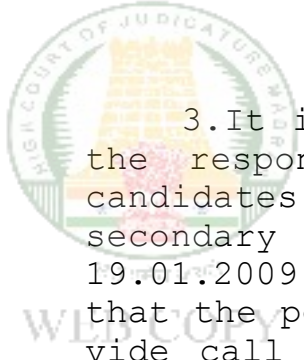
For Respondents : Mr.K.Guru (for R1 to R6)
Additional Government Pleader

For Respondent No7: Dismissed for Default vide Court under
Dated 7/4/16

ORDER

The petitioner has filed this writ petition for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings in Na.Ka.No.2323/As4/2012 dated 13.03.2013, passed by the 2nd respondent and quash the same as illegal, arbitrary and against the natural justice and equity and consequently to direct the respondents 1 to 4 to appoint the petitioner to the post of Secondary Grade Teacher under the category of Schedule Caste Ex-Serviceman Quota at par with similarly appointed candidates.

2.It is the case of the petitioner that he is a Diploma holder in Teacher Training. He was awarded with Diploma in the year 2008 and thereby he is eligible to be appointed as a Secondary Grade Teacher. The petitioner belongs to Scheduled Caste community besides being the ward of an Ex-Service man is entitled to be appointed on reservation basis. The students across the state, who have completed their Diploma in Teacher Training in the year 2009 was issued with their diploma certificates on 18.01.2009. However, this petitioner as well as the other students belonging to the 7th respondent Educational Institution was issued with Diploma in Teacher Training certificates, belatedly by ten days on 28.01.2009. The said delay in issuing of certificate was caused due to the non-availability of printing infrastructure with the 5th respondent, for which the certificates were hand written and has been issued there after 10 days from the date of issuing certificates to other colleges. Because of the said delay of 10 days in collecting the Diploma Certificate, this petitioner was in a position to get his name registered with the Employment Exchange only on 29.01.2009 i.e., the next day after receiving the Diploma Certificate.



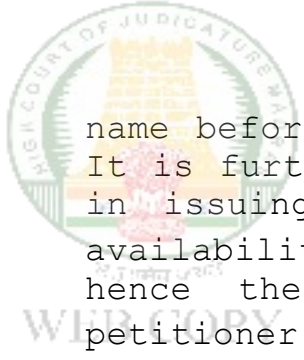
3. It is further case of the petitioner that in the meanwhile the respondents 1 & 2 called for the name of the eligible candidates list from the Employment Exchange for the post of secondary grade Teacher holding the seniority date on or before 19.01.2009. The Learned counsel for the petitioner further submits that the petitioner though was called for certificate verification vide call later on 13.10.2009 for verification that was held on 21.10.2009 and despite the petitioner having attended the certificate verification, was not issued with appointment order. Therefore the petitioner filed writ petition before this court in W.P.No.4747/2012 praying for Mandamus directing the respondents 1 to 5 to extend the cut-off date for seniority for this petitioner as 29.01.2009. This court vide order dated 24.01.2013 directed the 2nd respondent herein to consider the representation of the petitioner in the light of the available vacancy thereof.

4. The Learned Counsel for the petitioner submitted that the 2nd respondent vide the impugned proceedings herein dated 13.03.2013 has rejected the claim of the petitioner holding that the cut-off date cannot be relaxed to the petitioner. Therefore, the petitioner has come up with the present writ petition challenging the order of the 2nd respondent, rejecting the petitioner's claim for extension of time by ten days of the cut-off date from 19.01.2009 to 29.01.2009 in so far as this petitioner is concerned.

5. At the time of admission itself, this court on taking into account that the petitioner was found faultless on his part, that he is being issued with certificates on 28.01.2009, i.e., ten days belated than that of the others and having registered the same on the very next day i.e., 29.01.2009 before the 6th respondent herein, has ordered to keep one post vacant by order dated 17.4.13.

6. Though this writ petition is filed in the year 2013, none of the respondents have chosen to file counter affidavit to this writ petition. Therefore, this court has no other go, except to pass orders on the basis of the available materials on record.

7. On perusal of the typed set of papers as well as the affidavit of the petitioner and also upon hearing the arguments of the Learned Counsel for the Petitioner and the Learned Government Advocate appearing for the respondents, it is found that the petitioner is not issued with certificates on par i.e., 18.01.2009 <https://hcservices.hcscourts.gov.in/hcservices/> with that of his batch mates of the year 2009 across the state. This made the petitioner to get registered his



name before the 6th respondent with ten days delay on 29.01.2009. It is further found from the records that the said ten days delay in issuing the Diploma Certificate is caused due to the non-availability of printing infrastructure with the 5th respondent, hence the certificate was hand written and issued to the petitioner and other students studied in the 7th respondent Institution.

8.The said reason for delay in issuing the certificate cannot be attributed as against this petitioner, for registering his name on 29.01.2009. Further it is found that the petitioner is a ward of an Ex-Service man and also belonging to a reserved community i.e, Schedule Caste Community is entitled for appointment on priority basis. It is noteworthy that this court, by order in M.P.No:2 of 2013 dated 17.03.2013 has directed the 2nd respondent to keep one post vacant, so as to accommodate this petitioner in the event of succeeding this writ petition.

9.For the reasons stated above, this court feels that on application of no fault theory that the petitioner can't be deprived of his right to get employment for the delay in issuing certificate by the 5th respondent. Therefore, in the interest of justice and equity, the impugned order is liable to set aside. Accordingly the impugned order is set aside.

10.In the result:

(a) this writ petition is allowed by setting aside the order in Na.Ka.No.2323/Aa4/2012 dated 13.03.2013 passed by the 2nd respondent;

(b) the 2nd respondent is hereby directed to call for the petitioner and conduct verification and appoint the petitioner as Secondary Grade Teacher in any government school, if otherwise he is eligible;

(c) the 2nd respondent should complete the excise within a period of 2 months 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 Secretary to Government,
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Chennai - 600 006.
6. The District Employment Officer,
District Employment Office,
Dindigul.

Pre-Delivery order made in
W.P. (MD) No. 6267 of 2013
and
M.P. (MD) No. 2 of 2013
30.01.2017

VSA/SKN

KK-SV-MMS-SAR3-6.3.2017-5P-7C