

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.03.2018

Coram

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.2490 of 2013
and M.P.Nos.1 & 2 of 2013

V.Kamala

.. Appellant

Vs.

1.The Government of Tamil Nadu,
rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.

2.The Director of School Education,
College Road,
Nungambakkam, Chennai-600 006.

3.The Chairman,
Teachers Recruitment Board,
Chennai-600 006.

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order dated 05.04.2013 made in W.P.No.9047 of 2013 on the file of this Court.

PRAYER WP.9047 OF 2013:-

Petition under Article 226 of the Constitution of India praying for the issues of the Writ of Mandamus directing the 2nd respondent to select and appoint the petitioner as graduate Assistant Teacher in History in the available vacancy pursuant to her pass in the TET Test conducted on 14.10.2012 with Roll No.12 TE 24154938.

For Appellant : Mr.A.R.Suresh

For Respondents: Mr.K.Karthikeyan,
Government Advocate (Education)

J U D G M E N T

[Judgment of the Court was delivered by
K.K.SASIDHARAN, J.]

The appellant filed a writ petition before the writ Court in W.P.No.9047 of 2013 for issuance of Writ of Mandamus, directing the Director of School Education to select and appoint her as Graduate Assistant Teacher in History in the available vacancy pursuant to her pass in the Teachers Eligibility Test held on 14 October, 2012.

2.The claim made by the appellant that she is eligible for appointment to the post of Graduate Assistant was negatived by the learned Single Judge on the ground that the judgment in R.Thirunavukkarasu Vs State of Tamil Nadu [2012 (5) CTC 129] would bar any such appointment, as it would be post graduation without undergoing the regular course. Feeling aggrieved, the appellant is before this Court.

3. The learned counsel for the appellant contended that the appellant took the post graduate degree only after undergoing the regular course for the award of Bachelor's degree. The learned counsel has also produced documents in support of the said contention.

4. The learned Government Advocate would submit that the appellant was not eligible for appointment to the post of Graduate Assistant on account of the subject in which she specialised, vis-a-vis required qualification for appointment to the post of Graduate Assistant.

5.The appellant filed the writ petition for a direction to the second respondent to appoint her as Graduate Assistant Teacher in History. It is true that the appellant appeared for the Teachers Eligibility Test held on 14 October, 2012. The learned Single Judge made it clear that it is open to the respondents to issue a certificate to the appellant certifying that she appeared for the Teachers Eligibility Test on 14 October, 2012 and indicating the marks secured by her. However, the learned Single Judge observed that on the basis of such declaration, it would not be possible for the appellant to seek employment as a matter of right, unless she establishes the fundamental fact that she completed three year full-fledged degree course in the same subject.

6.The certificate produced by the appellant prima facie shows that she completed her three year full-fledged degree course and thereafter, she joined the post graduate degree course.

7. However, the core question is as to whether on the basis of the marks obtained by the appellant in the Teachers Eligibility Test, whether a direction can be issued to the respondents to consider her for appointment.

8. The only right available to the appellant is to make an application for appointment to the post of Graduate Assistant on the basis of her pass in the Teachers Eligibility Test. The eligibility of the appellant for appointment to the said post would be decided by the respondents on the basis of her degree taking into account the qualification required for appointment to the post of B.T.Assistant in History. The order passed by the learned Single Judge is modified to the extent indicated above.

The intra court appeal is disposed of with the above clarification. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

gms
To

1.The Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Secretariat, Chennai-600 009.

2.The Director of School Education,
College Road,
Nungambakkam, Chennai-600 006.

3.The Chairman,
Teachers Recruitment Board,
Chennai-600 006.

+1cc to Mr.A.R.SURESH, Advocate, S.R.No. 17153
+1cc to the Government Pleader, S.R.No. 17107

W.A.No.2490 of 2013

BR(CO)
TR(10/04/2018)