



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.02.2018
CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

W.A.(MD) No.457 of 2014
and M.P.(MD) Nos. 1 and 2 of 2014

The District Educational Officer,
Aruppukottai,
Virudhunagar District.

... Appellant/1st Respondent

Vs.

1. S.M.Rojapoo ... 1st Respondent/Writ Petitioner
2. The S.H.N.Ethel Harvey Girls,
Higher Secondary School,
Sattur 625 203
Rep. By its Secretary
and Correspondent .. 2nd Respondent/2nd Respondent

PRAYER :- Writ Appeal is filed under Clause 15 Letter Patent against the order dated 31.01.2014 in W.P.No.4737 of 2011 on the file of this Court.

Prayer in WP(MD). 4737/ 2011 :-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIIFIED MANDAMUS, calling for the records relating to the order passed by the first Respondent dated 07-04-2011 in Na.Ka.No.635/Aa3/2011 and quash the same and direct the first Respondent to release grant in aid to the 2nd Respondent School for the payment of salary to the petitioner from February 2011 in the post of B.T. Assistant History along with all accruing benefits.

For Appellant	: Mr.D.Muruganantham
For R1	: Mr.N.Dilip Kumar
For R2	: No appearance

J U D G M E N T

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.D.Muruganantham, learned Additional Government Pleader appearing for the appellant and Mr.Dilip Kumar, learned counsel appearing for the first respondent/writ petitioner.

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2. This Writ Appeal is directed against the order passed by the learned single Judge in W.P (MD) No. 4737 of 2011 dated 31.01.2014.

3. The said Writ Petition was filed by the first respondent herein challenging the order passed by the appellant/first respondent dated 07.04.2011, to direct the first respondent to



release grant in aid to the second respondent school for payment of salary to the first respondent from February 2011 in the post of B.T Assistant History along with accruing benefits. This Court, after considering the factual position, allowed the writ petition setting aside the order passed by the appellant and directed the appellant to release the grant in aid to the school to enable salary to be disbursed to the first respondent/writ petitioner.

4. After elaborately hearing the arguments made by the learned counsel for the parties, this Court finds that the first respondent has been repeatedly harassed by the Department but for the court orders, which struck down the illegal and arbitrary action of the appellants. The first respondent would have lost the earlier career. The present appeal by the appellant is to dislodge the order passed in the writ petition. The only ground canvassed before this Court is that the petitioner has not acquired the requisite qualification as she holds B.Ed degree in Special Education and not in General Education. This argument is liable to be rejected for the simple reason that the petitioner's qualification is regularized by the Rehabilitation Council of India.

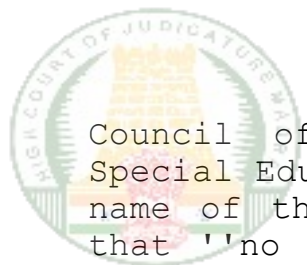
5. The National Council for Teacher Education issued necessary regulations vide Notification dated 25.08.2010 for matters pertaining to Teacher Education Institutions and one among them is regarding Diploma/Degree Course in Teacher Education, which is contained in the regulation, which reads thus:

"Diploma/Degree Course in Teacher Education: For the purposes of this Notification, a diploma/degree course in teacher education recognized by the National Council for Teacher education (NCTE) only shall be considered. However, in case of Diploma in Education (Special Education) and B.Ed., (Special Education), a course recognized by the Rehabilitation Council of India (RCI) only shall be considered"

6. In terms of the above stipulation, a Diploma in Teacher Education (Special Education) and B.Ed in Special Education, a course recognized by the Rehabilitation Council of India (RCI) shall be considered. The petitioner has produced record to show that Rehabilitation Council of India (RCI) has recognized the institutions offering B.Ed in Multiple Diploma Courses. The Education Agency, which runs the institution where the first respondent/writ petitioner, underwent the course, is a recognized institution, which is found in Serial No.201, namely, Mary Kanagam Memorial Educational Trust.

7. It is argued by the learned Additional Government Pleader that the petitioner has completed the said course in Indira Gandhi College of Special Education and Higher Education and it was shown in the website of Mary Kanagam Memorial Educational Trust is recognized, not Indira Gandhi College of Special Education. Unfortunately, the appellant has lost sight of the distinction between the Educational Agency and the Institution. Mary Kanagam Memorial Educational Trust is an Educational Agency which has established and administering the Indira Gandhi College of Special Education, Coimbatore. This is evident from the prospectus of the Institution. Therefore, the said argument is rejected.

8. The learned Additional Government Pleader submitted that in the recent publication in the official website of Rehabilitation



Council of India (RCI), the institution namely, Indira Gandhi Special Education has been put under 'no admission' category. The name of the institution finds place in Serial No.487. It is seen that 'no admission' category is for the academic year 2017-2018. Therefore, this contention is also rejected.

9. One more aspect to be noted is that in the official website of Rehabilitation Council of India (RCI), in Serial No.487, below the name of Indira Gandhi College of Special Education, it has been mentioned as Mary Kanagam Memorial Education Trust. Therefore, this also supports the first respondent/writ petitioner.

10. One more aspect is that the Government themselves vide G.O.Ms.No.56 Higher education (K2) Department, dated 24.04.2012 has ordered that B.Ed Special Education is equivalent to qualification to B.Ed General Education. This Government Order would enure in favour of the petitioner, because the equivalence of qualification shall date back to the date of acquisition of qualification. This legal position is settled by this Bench in several decisions.

11. The learned Additional Government Pleader submitted that the Department cannot be held responsible for payment of salary as it is the management which permitted the first respondent to serve as teacher.

12. In our considered view, such submission is to be outrightly rejected for several reasons and more importantly, when the first respondent/writ petitioner has been dragged into litigation just to establish her genuine case, she has been put to lot of difficulties, in spite of the fact that she has been taken up an assignment which involves extreme patience and dedication when children with learning disabilities have to be handled in a professional manner.

13. Thus, for all the above reasons, we find that the appellants have not made any case for granting any relief in this appeal. Accordingly, the Writ Appeal is dismissed. The entire monetary benefits payable to the writ petitioner for the period from 01.02.2011 to 31.05.2013 shall be paid by the appellant through the second respondent management within a period of four weeks from the date of receipt of copy of this Judgment. Any delay in settlement of salary arrears will attract interest at the rate of 9% per annum from the date of expiry of four weeks time which shall be borne by the appellant.

14. In the result, the Writ Appeal is dismissed with directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

+One cc to Mr.N.DilipKumar, Advocate, SR.No.49483

+One cc to The Special Government Pleader, SR.No.49782

RMI/CM

RL/3C/3P/SV/MMS/SAR1/22/3/2018

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