



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.11.2018

DELIVERED ON : 23.11.2018

WEB COPY

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

W.P (MD) No.118 of 2015

Babybai

.. Petitioner

Vs.

1. The State of Tamil Nadu rep. by
its Secretary to Government,
School Education Department,
Fort St. George, Chennai - 9.
2. The Director of Elementary Education,
College Road, Chennai - 600 006.
3. The Principal Accountant General (A&E),
Accountant General (A&E) Office,
Chennai.
4. The District Elementary Educational Officer,
Kanyakumari District, Nagercoil.
5. The Assistant Elementary Educational Officer,
Munchirai Circle, Pudukadai Post,
Kanyakumari District.
6. The District Treasury Officer,
District Treasury Office,
Nagercoil.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned proceedings in Na.Ka.No.1210/A3/2014 dated 05.09.2014 on the file of the fourth respondent and quash the same as illegal and consequently directing the respondents to grant all the monetary benefits to the petitioner in accordance with the G.O.Ms.No.347, Education (School), dated 15.09.1998 issued by the Department of Elementary School Education, Chennai, dated 15.09.1998 and pass such further or other orders.



For Petitioner : Mr.M.P.Senthil
For Respondents : Mrs.S.Srimathy,
1,2 and 4 to 6 Special Government Pleader.
For Respondent No.3 : Mr.P.Gunasekaran

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ORDER

The writ petitioner seeks a writ of certiorarified mandamus to call for the entire records relating to the impugned proceedings in Na.Ka.No.1210/A3/2014, dated 05.09.2014 on the file of the fourth respondent, quash the same as illegal and consequently direct the respondents to grant all the monetary benefits to the petitioner in accordance with G.O.Ms.No.347, School Education Department, dated 15.09.1998 issued by the Department of Elementary School Education, Chennai, dated 15.09.1998.

2.Heard the learned counsel appearing for the petitioner, learned Special Government Pleader representing the respondents 1, 2 and 4 to 6 and the learned counsel appearing for the third respondent.

3.The petitioner herein contends that she was appointed as Elementary School Teacher (Junior Grade Teacher) on 02.12.1970 and was promoted as Secondary Grade Teacher on 01.09.1986. On attaining superannuation, she retired as a Secondary Grade Teacher in L.F.R.C. Primary School in Kanyakumari District on 31.03.2002. Even on the date of her appointment as Elementary School Teacher on 02.12.1970, she possessed the requisite qualification of Secondary Grade Teacher. She also cleared the SCERT Examination on 01.09.1986. As per G.O.Ms.No.347, School Education Department, dated 15.09.1998, persons who were appointed as Teacher (Junior Grade) in the primary schools, were extended the monetary benefit of the pay received by the Secondary Grade Teachers. This benefit was to be given from 1971 or from the date of appointment whichever is later. Under the terms of the said G.O., she was entitled for the monetary benefits from 1971. However, she was given the pay of Secondary Grade Teacher only from 01.09.1986. Her past service of 15 years, 7 months and 30 days as Junior Teacher with Secondary Grade Certificate was not taken into consideration despite G.O.Ms.347. All her representations to the authorities ended in futile. The District Elementary Education Officer, who is the fourth respondent herein vide his proceedings dated 05.09.2014 has rejected the representation holding that she is not entitled for monetary benefit for the period prior to she acquired SCERT qualification. Hence, the petitioner has preferred this writ petition seeking writ of certiorarified mandamus to call for the records pertaining to impugned proceedings of the fourth respondent dated 05.09.2014 and quash the same with the consequential relief to grant the monetary benefits to the petitioner in accordance with G.O.Ms.No.347, School Education Department, dated 15.09.1998 with effect from 01.01.1971 to 31.08.1986.

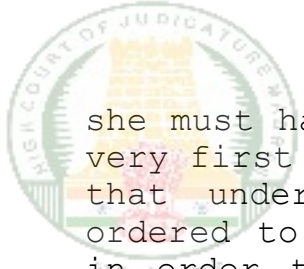


4. In the counter affidavit filed by the fourth respondent, it is stated that the petitioner was originally appointed as Junior Grade Teacher on 02.12.1970. Based on the educational qualification, she was observed as Secondary Grade Teacher with effect from 01.09.1986. Finally, she retired from service on 31.03.2002. After a lapse of thirteen years, the present writ petition is filed without any valid reason or justification. The petitioner when appointed as Junior Grade Teacher on 02.12.1970, she only possessed Nursery Training School Leaving Certificate. It is incorrect to say that she possessed Secondary Grade Teacher Certificate on the date of her appointment. She got the necessary qualification for Secondary Grade Teacher namely, SCERT only on 23.12.1985. Soon after, her qualification was considered as per G.O.Ms.No.347, she was promoted as Secondary Grade Teacher on 01.09.1986. Subsequently, her salary was also refixed par with the Secondary Grade Teacher and duly paid.

5. It is also stated in the counter affidavit that G.O.Ms.No. 347 dated 15.09.1998 fixed crucial date as 01.01.1971. As per the said G.O, those who possessed SCERT certificate, were absorbed as Secondary Grade teacher with effect from 01.01.1971 or on the date on which the teacher qualify herself with SCERT certificate whichever is later. The petitioner did not possess Secondary Grade Teacher Certificate on the date of her appointment. She possessed only Junior Grade Teacher Certificate. The petitioner got her SCERT certificate only on 23.12.1985 and thereafter she was absorbed as Secondary Grade Teacher as per G.O.Ms.No.347.

6. The learned Special Government Pleader representing the fourth respondent would submit that the certificate relied by the petitioner clearly indicates that she passed the Nursery Training School Leaving Certificate Examination held in April 1967. Her grade in the examination was secondary. Taking advantage of her grade, she attempted to equate her Nursery Teacher Certificate with that of Secondary Grade Teacher Training Certificate. The SCERT Certificate issued to the writ petitioner after completion of the course, would disclose that the petitioner was only a Junior Teacher with Roll No. 21 of 1967. Later for getting promotion as Secondary Grade Teacher, she has taken up the SCERT Examination and got through the exam on 23.12.1985. The certificate issued to the petitioner by the Department of the School Education through Tamilnadu Educational Research and Training Institute also indicates that this certificate is issued to enable Junior Teachers to get promoted as Secondary Grade Teachers as per G.O.Ms.117, dated 23.01.1980. Therefore, the writ petition is liable to be dismissed.

7. The petitioner herein has placed her case on the premise that the fourth respondent has not considered G.O.Ms.No.347 in her favour. According to the writ petitioner, on the date when she was appointed as Junior Teacher, she possessed the requisite qualification prescribed for the Secondary Grade Teacher. If the claim is correct, then on the date of her appointment on 02.12.1970,



she must have been absorbed as Secondary Grade Teacher because, the very first paragraph of the G.O.Ms.No.347 dated 15.09.1998 would say that under G.O.Ms.No.1355 dated 03.06.1967, the Government has ordered to appoint Secondary Grade Teachers in all primary schools in order to upgrade the education standard. Pursuant to the said G.O., the Government has decided to absorb all the Junior Teachers as Secondary Grade Teachers. Nearly 14,000 Junior Teacher posts had been converted into Secondary Grade Teacher posts between 1967-1968 and 1970-1971.

8.The second paragraph of G.O.Ms.No.347 further reveals that in the year 1971, nearly 5,500 Junior Teachers have expressed their option of serving as Junior Teachers in the primary schools. Therefore, despite upgrading and converting the posts of Junior Teachers (Elanilai) into Secondary Grade Teachers (Idainilai) in G.O.Ms.No.287, Education Department, dated 20.02.1971, some of the qualified Secondary Grade Teachers were not able to be accommodated in the upgraded posts.

9.In the said circumstances, 240 Secondary Grade qualified Teachers who were working in Adi-Dravida Welfare Schools as Primary School Teachers were regularized and all the Junior Teachers with Secondary Grade Teacher qualification were given pay parity. The same benefit has been extended to similarly placed Junior Teachers with Secondary Grade Certificate working in schools other than Adi-Dravida Welfare School. This G.O. has been passed after the order passed by the Administrative Tribunal.

10.G.O.Ms.No.347 relied by the writ petitioner without any ambiguity, indicates that it is in respect of teachers with higher qualification working as Junior Teachers, who were identified as about 6000 in numbers as on the date of the G.O. This G.O. also mandates that the teachers who have been appointed as Junior Teachers should be regularized as Secondary Grade Teachers on 01.01.1971 or on the date when the Junior Teacher obtains Secondary Grade Teacher Certificate.

11.The records furnished by this writ petitioner indicates that she had obtained the requisite certificate fit for considering her name for promotion as Secondary Grade Teacher only on 23.12.1985. The said certificate specifically states that this certificate is issued to enable the petitioner to consider her name for promotion as Secondary Grade Teacher from the post of Junior Teacher. Therefore, it is clear as crystal that the writ petitioner has qualified herself for promotion as Secondary Grade Teacher only after 23.12.1985 and not prior to that. The certificate which she possessed at the time of her appointment, is only Nursery Training School Leaving Certificate. By no stretch of imagination, it could be equalant to Secondary Grade Teacher Certificate or SCERT Certificate. If it was actually equalant as Secondary Grade Teacher Certificate, then her name for absorption would have been considered as early as 1998 among the 6000 teachers referred in paragraph 5 of G.O.Ms.No.347. Further, if she was qualified as Secondary Grade Teacher as claimed, she need not have undergone the SCERT



Certificate course in the year 1985. Above all, if her request was believed to be genuine and G.O.Ms.No.347, dated 15.09.1998 has to be interpreted in the way the petitioner intends, she should have made her request as soon as the issuance of the G.O. or within a reasonable time. Whereas the writ petitioner has admitted in her affidavit that she was promoted as Secondary Grade Teacher from the post of Junior Teacher on 01.09.1986 after completing the SCERT Certificate Course. While so, it is patently clear that the petitioner has filed this writ petition belatedly, with full knowledge that her claim has no merit.

12. For the above said reasons, this Court holds that the writ petition is devoid of merits and hence, deserves dismissal. Accordingly, this writ petition is dismissed. No order as to costs.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Secretary to Government,
School Education Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 9.
2. The Director of Elementary Education,
College Road, Chennai - 600 006.
3. The Principal Accountant General (A&E),
Accountant General (A&E) Office, Chennai.
4. The District Elementary Educational Officer,
Kanyakumari District, Nagercoil.
5. The Assistant Elementary Educational Officer,
Munchirai Circle, Pudukadai Post,
Kanyakumari District.
6. The District Treasury Officer,
District Treasury Office, Nagercoil.

- + 1 CC TO Mr.P.GUNASEKARAN, ADVOCATE IN SR No. 96857
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 96813
- + 1 CC TO Mr.M.P.SENTHIL, ADVOCATE IN SR No. 96754

SMN

TE/BK/SAR-2 : 10/12/2018 : 5P/10C