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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.A. (MD) No. 1589 of 2018
and
C.M.P. (MD) No. 11359 of 2018

The District Revenue Officer,
(Kallar Reclamation),
Officer of the District Revenue Officer,
Madurai - 625 020. ... Appellant/Respondent

-vs-

N. Sivapandy ... Respondent/Writ Petitioner

PRAYER : Writ Appeal filed under Clause 15 of Letter Patent, praying to set aside the order dated 08.02.2017 passed in W.P. (MD) No. 2712 of 2010.

Prayer in WP(MD) . 2712/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records relating to the Charge Memo issued by the respondent against the petitioner in Na.Ka.No.H2/121685/2003 dated 19.01.2010 and quash the same and consequently direct the respondent to comply with the order dated 30.06.2003 passed by the Administrative Tribunal in O.A.No.6236 of 2001 and to get the petitioner s Secondary Grade Teacher Training Certificate issued by the Karnataka Secondary Education Examination Board evaluated by the competent authority and to regularize service of the petitioner from the date of initial appointment i.e. 02.06.1999.... [Prayer amended as per order dt. 02.12.14 in MP.1/14 by KBKVJ

For Appellant : Mr. A.K. Baskarapandian,
<https://hcservices.ecourts.gov.in/hcservices/>



Special Government Pleader

For Respondent : Mr.A.Thirumoorthy

J U D G M E N T

(Judgment of the Court was delivered by
P.D.AUDIKESAVALU, J.)

The intra-Court Appeal arises from the order dated 08.02.2017 passed by the Learned Judge in W.P. (MD) No. 2712 of 2010. The parties are hereinafter referred to as per their description in the Writ Petition for the sake of convenience.

2.The Petitioner who hails from the State of Tamil Nadu, passed in the Teacher's Certificate Higher Course Examination held in May 1991, conducted by the Karnataka Secondary Education Examination Board and had secured employment as Secondary Grade Teacher in Kallar Reclamation Department in Collectorate, Madurai, by proceedings in Na. Ka. No. 97724/98H/2 dated 05.05.1999 on having been sponsored through the employment exchange where he had registered himself. The Petitioner had applied to the Director of Teacher Education, Research and Training on 23.01.2001 for evaluation of his Teacher's Training Course Certificate issued by the Karnataka Secondary Education Examination Board, but the same was rejected by that authority referring to G.O. Ms. No. 1236, Education Department, dated 17.09.1984, issued by the Government of Tamil Nadu. Aggrieved thereby, he had filed O.A. No. 6236 of 2001 before the Tamil Nadu Administrative Tribunal, which was disposed in a batch of cases filed by similarly placed persons, holding as follows:-

"..... There are less than only 100 applicants who are holding Karnataka and other State Certificates who have passed Second Grade Teachers Training Certificate course conducted by those Governments but who have failed to secure 50% in all subjects in the examination. But all of them have registered their names in the Employment Exchange and they have been waiting for a long time. But for the refusal to evaluate their certificates they would have got their appointments in the year 1999 or in the following years. The exemption has been granted to only two persons and the High Court has held that similar



persons are also entitled to benefits of the exempting G.O.s.

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13. Therefore I hold that these applicants are also entitled to have their certificates evaluated accordingly. Respondents are therefore directed to evaluate their certificates and to consider them for future appointment on priority basis. However these persons are not as a matter of right ask to be included or before that. All the applications are ordered accordingly granting them relief prayed for. M.A.s are closed."

3. While the matter stood as narrated supra, the Petitioner was issued a charge memo in Na. Ka. No. H2/121685/2003 dated 19.01.2010 by the District Revenue Divisional Officer, Kallar Reclamation, Madurai, for the reason that he had secured employment as Secondary Grade Teacher without satisfying the requirements prescribed for that post. The Petitioner then filed W.P. (MD) No. 2712 of 2010 before this Court challenging the said charge memo. However, in the affidavit filed in support of the Writ Petition, he had stated that the O.A. No. 6236 of 2001 filed by him before the Tamil Nadu Administrative Tribunal had not been disposed and had been transferred to the Madras High Court and was pending. However, the Respondents had filed a counter affidavit pointing out that O.A. No. 6236 of 2001 had been disposed on 30.06.2003 by the Tamil Nadu Administrative Tribunal and had justified the impugned order. At that stage, the Petitioner was permitted by order dated 02.12.2014 in M.P. No. 1 of 2014 to amend the relief sought in the Writ Petition as follows:-

"To call for the records relating to the Charge memo issued by the Respondent against the Petitioner in Na. Ka. No. H2/121685/2003 dated 19.01.2010 and quash the same and consequently direct the Respondent to comply with the order dated 30.06.2003 passed by the Administrative Tribunal in O.A. No. 6236 of 2001 and to get the Petitioner's Secondary Grade Teacher Training Certificate issued by the Karnataka Secondary Education Examination Board evaluated by the competent authority and to regularize service of the Petitioner from the date of initial appointment i.e., 02.06.1999 and grant all the service and other attended benefits



within a time limit to be fixed by this Court."

4. The Learned Judge who heard the Writ Petition by order dated 08.02.2017 held as follows:-

"14. At the same time the issue to be decided in the Writ Petition is that whether the Petitioner is entitled for the regularization of his service with all attendant benefits. At this juncture this Court has taken note of the unblemished service of the Petitioner since 02.06.1999. Apart from that till today he is in service for more than a period of seventeen years. In the long duration of the 17 years, any prudent man could get expertise in the field of his employment. Apart from that when the 17 years of service is taken note of this Court, it is all unblemished. So, this Court has no hesitation to ascertain that the service of the Petitioner shall not be disturbed, but it should be regularized with all attended benefits.

15. In that result:-

(a) the Writ Petition is allowed by quashing the impugned charge memo issued by the Respondent against the Petitioner in Na. Ka. No. H2/121685/2003 dated 19.01.2010.

(b) the Respondent is directed to comply with the order dated 13.06.2003 passed by the Tamil Nadu State Administrative Tribunal in O.A. No. 6236 of 2001 and to get the Petitioner's Secondary Grade Teacher Training Certificate, issued by the Karnataka Secondary Education Examination Board, evaluated by the competent authority and to regularize the service of the Petitioner from the date of his initial appointment that is 02.06.1999 and to grant all the service and other attendant benefits.

(c) the said exercise should be completed within a period of six weeks from the date of receipt of copy of this order.

16. However, considering the circumstances of the case there is no order as to cost. Connected Miscellaneous Petitions is closed. "



5. In this Appeal preferred by the Respondents against the aforesaid order passed in the Writ Petition, we have heard Mr. A. Thirumoorthy, Learned Counsel for the Petitioner and Mr. A.K. Baskarapandian, Special Government Pleader, appearing on behalf of the Respondent and perused the material records placed before the Court apart from the pleadings of the parties. It could be seen from the order passed by the Learned Judge that the following reliefs had been granted to the Petitioner:-

- (i) The Respondent was directed to comply with the order dated 13.06.2003 in O.A. No.6236 of 2001 passed by the Tamil Nadu Administrative Tribunal to get the Teacher's Training Course Certificate of the Petitioner issued by the Karnataka Secondary Education Examination Board, evaluated by the competent authority.
- (ii) The charge memo in Na. Ka. No. H2/121685/2003 dated 19.01.2010 was quashed.
- (iii) The Respondent was directed to regularize the service of the Petitioner from the date of his initial appointment i.e., 02.06.1999 and grant of service and other attendant benefits.

6. In so far as the relief no. (i) is concerned, the order of the Tamil Nadu Administrative Tribunal dated 13.06.2003 passed in O.A. No. 6236 of 2001 having become final and binding between the parties, the Respondent is bound to comply with the direction to evaluate the Teacher's Training Course Certificate issued by the Karnataka Secondary Education Examination Board and as such, we do not find any reason to interfere with the same.

7. However, we are unable to endorse the relief granted to quash the charge memo in Na. Ka. No. H2/121685/2003 dated 19.01.2010 and to direct regularization of the services of the Petitioner from the date of his initial appointment i.e., from 02.06.1999 with all benefits, which are relief nos. (ii) and (iii), inasmuch as the same are dependant upon the outcome of the evaluation to be made by the competent authority. It is only in the event that the Teacher's Training Course Certificate issued to the Petitioner by the Karnataka Secondary Education Examination



Board is found to be in order during evaluation by the competent authority, the granting of consequential relief nos. (ii) and (iii) would arise for consideration.

8. In that view of the matter, the Writ Appeal is partly allowed on the following terms:-

- (i) The order of the Learned Judge in so far as it relates to quashing the charge memo in Na. Ka. No. H2/121685/2003 dated 19.01.2010 and directing the regularization of the service of the Petitioner from the date of his initial appointment i.e., from 02.06.1999 with all benefits, are set aside.
- (ii) The Respondent shall, however, comply with the direction issued in order dated 13.06.2003 in O.A. No. 6236 of 2001 passed by the Tamil Nadu Administrative Tribunal by evaluating the Teacher's Training Course Certificate of the Petitioner issued by the Karnataka Secondary Education Examination Board. Till such completion, the Respondent shall defer further proceedings pursuant to the charge memo in Na. Ka. No. H2/121685/2003 dated 19.01.2010 and depending upon the result of the evaluation, further proceedings pursuant to the charge memo shall accordingly proceed in accordance with law.
- (iii) If the Petitioner is found to be successful in the evaluation of the Teacher's Training Course Certificate issued by the Karnataka Secondary Education Examination Board, he is at liberty to make representation to the competent authority for the regularization of his service with effect from his initial date of appointment i.e., 02.06.1999, with all consequential monetary benefits and if made, the same shall be considered by the competent authority on merits in accordance with law and a reasoned order shall be passed, which shall be communicated to the Petitioner within a period of three months from the date of receipt of such representation.
- (iv) There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(co)

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To

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The District Revenue Officer,
(Kallar Reclamation),
Officer of the District Revenue Officer,
Madurai - 625 020.

+1cc to Mr.A.Thirumoorthy Advocate in SR.No.96432
+1cc to Special Government Pleader, SR.No.96707

W.A. (MD) No. 1589 of 2018
22.11.2018

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