



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2018

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD)Nos.901 & 902 of 2013 and
M.P.(MD)No.1 of 2013

W.A.(MD)No.901 of 2013

1. The Director of Elementary Education,
Nungambakkam, Chennai.
 2. The District Elementary Educational Officer,
Tirunelveli District at
Palayamkottai - 627 002. ... Appellants/Respondents
- Vs.
1. Gnana Packiyam ... Respondent/Petitioner
 2. The Karnataka Secondary Education
Examination Board, Malleswaram,
Bangalore - 560 003.
 3. The Manager and Correspondent,
Hindu Primary School,
Kadayankulam, Vijaya Achambedu Post,
Ittamoli(Via),
Tirunelveli District.
 4. G.Jeshintha Melarmathi,
Teacher, Hindu Primary School,
Kadayankulam, Vijaya Achambedu Post,
Ittamoli(Via),
Tirunelveli District. ... Respondents/Respondents

W.A.(MD)No.902 of 2013

- G.Jeshintha Melarmathi,
Teacher, Hindu Primary School,
Kadayankulam, Vijaya Achambedu Post,
Ittamoli(Via),
Tirunelveli District. ... Appellant/5th Respondent
- Vs.

1. I.Gnanapackiyam ... 1st Respondent/Petitioner
2. The Karnataka Secondary Education
Examination Board, Malleswaram,
Bangalore - 560 003.



3. The Director of Elementary Education,
Nungambakkam, Chennai - 6.
4. The District Elementary Educational Officer,
Tirunelveli District at,
Palayamkottai - 627 002.
5. The Manager and Correspondent,
Hindu Primary School,
Kadayankulam, Vijaya Achambedu Post,
Ittamoli (Via),
Tirunelveli District.

... Respondents 2 to 5/
Respondents 1 to 4

COMMON PRAYER : Writ Appeals are filed under Clause 15 of Letter Patent, to set aside the order dated 08.09.2011 passed in W.P.(MD) No.4800 of 2006.

Prayer in WP(MD). 4800/ 2006 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of mandamus, directing the respondents 2 to 4 to reinstate the petitioner as a teacher in the 4th respondent school and consequentially terminate the appointment of 5th respondent who was appointed in the petitioners place and render justice.

For Appellants : Mrs.S.Srimathy
Special Government Pleader,
in W.A.(MD)No.901 of 2013
Mr.S.Kadarkarai,
in W.A.(MD)No.902 of 2013
For Respondents : Mr.T.Lajapathi Roy, for R-1
in both appeals.
Mr.Joseph Thatheus Jerome
for R-3
in W.A.(MD)No.901 of 2013
and for R-5
in W.A.(MD)No.902 of 2013
Mr.S.Kadarkarai for R-4
in W.A.(MD)No.901 of 2013
Mr.C.Chandrasekaran,
for R-3 and R-4,
in W.A.(MD)No.902 of 2013

C O M M O N J U D G M E N T

[Judgment of the Court was made by G.R.SWAMINATHAN, J.]

Gnanapackiyam/the first respondent herein.

2. The said Gnanapackiyam was appointed as a substituted teacher in Hindu Primary School, Kadayankulam, Tirunelveli District on 05.06.1980. She was made permanent on 01.04.1981. The said Gnanapackiyam had claimed that she was issued with a Teachers' Certificate by Karnataka Secondary Education Examination Board, after she did a two years course and passed the examination in the year 1980. Since the school management came to know that the certificate produced by Gnanapackiyam was not genuine, they terminated her from service on 05.05.1988. This was questioned by her in W.P. No.5385 of 1988. The Writ petition was allowed and the order of termination was set aside.

3. The first respondent herein/Writ petitioner submitted a petition to the Karnataka Secondary Education Examination Board on 22.08.1994. The stand of the Writ petitioner is that there was no response from the Karnataka Secondary Education Examination Board. But the Education Department had taken a stand that the Writ petitioner/first respondent herein had passed only the first year and failed in the second year as well as the practical examination. On that basis, the school management once again terminated the first respondent on 25.03.1996. This led to the filing of W.P. No.4704 of 1996. The said writ petition was disposed of by directing the Writ petitioner to submit another application to the Karnataka Secondary Education Examination Board for deciding the genuineness of the certificate. The Karnataka Secondary Education Examination Board was directed to give an opportunity to the Writ petitioner as well as the Education Department and take a decision. Based on the said decision of the Karnataka Secondary Education Examination Board, the school management as well as the educational authorities in Tamil Nadu were to pass appropriate orders. Pursuant to the aforesaid direction, the first respondent herein once again moved the Karnataka Secondary Education Examination Board on 28.03.2005. She also enclosed her earlier representation dated 22.08.1994. The Karnataka Secondary Education Examination Board vide letter dated 19.09.2005, called upon the first respondent herein/Writ petitioner to produce the original statement of marks of the first year and second year examination and also the pass certificate of T.C.H. so that it could take a decision in the matter.

4. The petitioner's stand was that these documents have been handed over to the Deputy Inspector of Schools of Nanguneri Range, on 29.10.1995. The petitioner also wrote to the Assistant Elementary Education officer, Nanguneri, to hand over those original documents. Since there was no response, the Writ petitioner filed W.P.(MD) No.4800 of 2006 for directing the school management as well as the Education Department to reinstate her in service. Since G.Jeshintha Malarmathi had been appointed in her place, the first respondent wanted her appointment to be terminated. The said Writ petition was allowed by order 08.09.2011. Questioning the same, the Department



has filed W.A.(MD)No.901 of 2013. Geshintha Malarmathi, who was appointed as a teacher in the place of the first respondent herein/Writ petitioner filed W.A.(MD)No.902 of 2013.

5. Heard the learned Special Government Pleader appearing for the appellant in W.A.(MD)No.901 of 2013 and the learned counsel appearing for the appellant in W.A.(MD) No.902 of 2013 and the learned counsel appearing for various parties.

6. During the intervening period, the Karnataka Secondary Education Examination Board vide communication dated 06.06.2013 made available the necessary particulars. It could be seen therefrom that the first respondent herein/Writ petitioner did not pass the Teachers' Training Certificate course and that the certificate produced by her at the time of appointment was not genuine. Since it has been convincingly established that the first respondent herein secured appointment by playing fraud, the order impugned in these Writ appeals will have to be necessarily set aside.

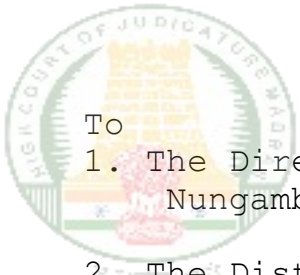
7. We are also of the view that the first respondent has really been given a long rope. The first respondent claimed that the Karnataka Secondary Education Examination Board issued her a Teachers' Certificate, after she successfully underwent a course conducted by the Board. The appointment secured by the first respondent herein/Writ petitioner was set aside on the ground that the certificate was not genuine. Therefore, the onus lay only on the first respondent to prove the genuineness of the certificate. The learned Judge had proceeded on the premise that the Karnataka Secondary Education Examination Board must give a finding with regard to genuineness of the first respondent's certificate and for that the original records have to be submitted by the first respondent herein. In fact all that the Karnataka Secondary Education Examination Board was required to do was to verify the records available with itself. The Karnataka Secondary Education Examination Board had been engaging itself in a futile correspondence with the first respondent herein. Only when the Karnataka Secondary Education Examination Board verified its records, the truth came to light. Since it has been categorically found that the first respondent did not even pass the second year as well as the practical examination, the order impugned in these Writ appeals will have to be set aside and accordingly, it is set aside.

8. The Writ appeals stand allowed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar(CS-I)



To

1. The Director of Elementary Education,
Nungambakkam, Chennai - 6.

2. The District Elementary Educational Officer,
Tirunelveli District at,
Palayamkottai - 627 002.

+2cc to Mr.T.Lajapathi Roy, Advocate, SR.No.95807

+1cc to Mr.S.KADARKARAI, Advocate, SR.No.95745

+1cc to M/s.Special Government Pleader,SR.No. 95818

W.A. (MD) Nos.901 & 902 of 2013 and
M.P. (MD) No.1 of 2013
15.11.2018

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KK/RSK/SAR-1/18.12.2018/5P-7C