

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2019

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.15462 of 2013

K.Alaguparamasivam

...Petitioner

Vs.

1.The District Elementary Educational Officer
Krishnagiri District, Krishnagiri

2.The District Employment Officer
District Employment Office
Krishnagiri District

3.The Chief Educational Officer
Krishnagiri District
Krishnagiri

4.The District Collector
Krishnagiri District
krishnagiri

5.The Director of Elementary Education
Directorate of Elementary Education
DPI Complex, Chennai 600 006

6.The State of Tamil Nadu
Rep. by its Secretary
Education Department
Fort St. George
Chennai 600 009

...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to appoint the petitioner as a Secondary Grade Teacher on regular basis w.e.f. 25.08.2001, the date on which the petitioner's Junior Mr.Rajesh Ebenazer was appointed on the time scale of pay with all consequential benefits including arrears of pay and allowances, seniority, promotion on par with his junior, pension benefits.

For Petitioner : Mr.P.V.S.Giridhar
for M/s.Giridhar and Sai

For Respondents : Mr.K.Karthikeyan, G.A. for RR1 to 6

O R D E R

This writ petition has been filed for issuance of Writ of Mandamus, directing the respondents to appoint the petitioner as a Secondary Grade Teacher on regular basis w.e.f. 25.08.2001, the date on which the petitioner's Junior Rajesh Ebenazer was appointed on the time scale of pay with all consequential benefits including arrears of pay and allowances, seniority, promotion on par with his junior, pension benefits.

2.The brief facts of the case is that the petitioner after completion of Higher Secondary examination, passed Diploma in Teacher Education and registered his name in Thoothukudi Employment Exchange for the purpose of appointment as Secondary Grade Teacher (Secondary Grade teacher). Thereafter, the petitioner shifted his residence to Uddanapalli Village, Hosur (TK) Dharmapuri District (now Krishnagiri District). There, he applied for residence certificate and obtained the same on 26.05.1999 and the same was registered with the Dharmapuri District Employment Exchange and the petitioner was assigned Employment Exchange No.1399 of 1999 on 26.07.1999. During the year 2000-01 steps were taken to fill up vacancies in the post of Secondary Grade teacher in each District in the Government and Panchayat Union Schools. Several candidates were sponsored by the Employment Exchange. At that time, the 4th respondent by proceedings, dated 24.08.2000 cancelled the residence certificate issued to the petitioner and by his further letter dated 24.08,2000 had directed the second respondent to temporarily exclude 152 persons, including the petitioner for being sponsored for appointment. Challenging the said proceedings of the 4th respondent, the petitioner preferred a writ petition in W.P.No.21702 of 2002. By order, dated 20.06.2002 this court following the decision of the order passed in W.P.No.15307 of 2001 dated 08.08.2001 disposed of W.P. No.21702 of 2002 by setting aside the order of the 5th respondent and remanded the matter to the District Collector for further verification and passed further directions by following the observations made in order dated 08.08.2001 in W.P.No.15307 of 2001 dated 08.08.2001 as follows:

"....2. The respondents are permitted to proceed with the appointment of teachers excluding the certificates which are under verification with the existing rules of

employment order according to Government order. The appointment order should state that order will be subject to the result of those persons, who are already in the seniority list in the employment exchange registered and they may be replaced consequent on such verification of the certificates decided to favour of the petitioners if they are not senior enough to hold the post".

3. In the meanwhile, the respondents sponsored several of petitioner's Juniors including one Rajesh Ebenazer and appointed as Secondary Grade teacher w.e.f. 25.08.2001. As per the directions of this Court vide order dated 20.06.2002, the District Collector verified the writ petitioner's residential certificate and held it to be genuine. Despite the subsequent order, the writ petitioner's name was not sponsored for appointment as Selection Grade Teacher. Hence, the petitioner made a representation to the respondent for appointment to the post of Secondary Grade teacher. Thereafter, the respondent passed an order on 15.08.2004, appointing the petitioner as Junior Secondary Grade Assistant Teacher on consolidated pay. The respondents ought to have appointed the petitioner to a regular post of Secondary Grade teacher on a time scale pay w.e.f. 25.08.2001, the date on which the petitioner's junior Rajesh Ebenazer was appointed. The aforesaid Rajesh Ebenazer, the junior of the petitioner had registered his name in the Hosur, Dharmapuri District employment exchange, subsequent to the petitioner's registration. Since the writ petitioner was appointed on a consolidated pay on 15.08.2004, he has been denied several benefits including pension, General Provident Fund and increments. The petitioner was regularised on 01.06.2006 and was working as Secondary Grade Assistant in Panchayat Union Middle School at Krishnagiri District. The writ petition in this regard filed by one Mr. Balagangadharan, was allowed by this court and the said order was implemented by the School Education Department vide G.O.(3d) No.128 dated 28.09.2011. The respondents assured the petitioner that the benefits would be granted to him on par with similarly placed persons who have been granted the benefit of notional appointment with effect from the date of appointment of their juniors to the post of Secondary Grade teacher. But the benefits due to the petitioner were not granted as assured by the respondent.

4. The learned Government Advocate appearing for the respondents submitted that the petitioner has not made any representation to the respondents to consider the claim of the writ petitioner as stated in the present writ petition. Without

submitting any representation, the petitioner has approached this court straightaway.

5. Further, in the counter affidavit, it is stated that on the date of sponsoring the list for appointment to the post of Selection Grade teachers by the District Employment office, Krishnagiri, the residence certificate of the petitioner was cancelled and the same was placed under question for genuineness. The order of the Revenue Divisional Officer dated 17.10.2002 in Na.Ka.5421/2002 (B4) revealed that the petitioner was residing at Uddanapalli Village, since 04.05.1998 and worked in the provisional stores at Uddanapalli village from 04.05.1998 to 29.10.2001. The petitioner who was resided at Uddanapalli village has registered his name in the employment office at Thoothukoodi only on 12.04.1999 is wrong. As on the date of sponsoring the list in the year 2001 the residence certificate of the writ petitioner was in question and next sponsoring list was sent only in the year 2004 and the writ petitioner was appointed as Secondary Grade teacher based on the list sponsored in the year 2004. Rajesh Ebenazer was appointed on 25.08.2001. On the date of his appointment, the residence certificate of the petitioner was cancelled and hence the petitioner has no locus standi to question the order of appointment of the said Rajesh Ebenazer. Therefore, the petitioner has no legal right to claim appointment from the date of appointment of Rajesh Ebenazer. Therefore, the writ petition is liable to be dismissed.

6. It is found that the writ petitioner is claiming the relief for appointment to the post of Secondary Grade teacher on par with one Rajesh Ebenazer, who was appointed as Secondary Grade teacher on 25.08.2001. The Government had passed an order by considering the request of the similarly placed persons, granted the relief to them in G.O.Ms.No.430 Finance (Pension) dated 06.08.2004. But on facts, the petitioner has not made any representation to the Government and has approached this court in the year 2013. Hence, no relief can be granted to the writ petitioner. Writ petition is liable to be rejected.

7. However, liberty is granted to the writ petitioner to make his representation to the 6th respondent through the 5th respondent within a period of two weeks from the date of receipt of a copy of this order. If any such representation is being made by the petitioner, the same shall be considered in accordance with law, by taking note of the Government order in G.O.Ms.No.430 Finance (Pension) dated 06.08.2004 within a period of 12 weeks thereafter.

8. Accordingly, this writ petition stands disposed of.
No costs.

Sd/-
Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

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To

1. The District Elementary Educational Officer
Krishnagiri District, Krishnagiri
2. The District Employment Officer,
District Employment Office, Krishnagiri District
3. The Chief Educational Officer
Krishnagiri District, Krishnagiri.
4. The District Collector
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5. The Director of Elementary Education
Directorate of Elementary Education,
DPI Complex, Chennai 600 006
6. The Secretary
State of Tamil Nadu
Education Department,
Fort St. George,
Chennai 600 009.

+1CC to SPL GP SR.Nos.103145 & 102213

W.P.No.15462 of 2013

MR (CO)
CSR: 28/01/2020

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