

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.7711 of 2007
and M.P.No.1 of 2014

G.Vanitha

.. Petitioner

Vs.

- 1.State of Tamilnadu Rep. By its
Secretary to Government
School Education Department,
Fort St. George, Chennai 9.
- 2.The Director of School Education,
College Road,
Chennai 6.
- 3.The Joint Director of School Education (Higher Secondary)
College Road, Chennai 6.
- 4.The Chief Educational Officer,
Panagal Building,
Saidapet,
Chennai 600 015.
- 5.The District Educational Officer (North D.O.)
Egmore
Chennai 600 008.
- 6.The Correspondent,
ICF Aided Higher Secondary School,
ICF Colony,
Chennai 600 038.
- 7.Thiru V.Selvam,
Vocational Teacher,
Government Model School,
Saidapet, Chennai 15.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records relating to the selection list dated 13.02.2007, issued by the 2nd respondent, quash the same in so far as it fails to follow the seniority in regularizing the Vocational Teachers and consequently for a direction, directing the 2nd respondent to regularize the service of the petitioner in accordance with G.O.35 dated 09.02.2007 based on seniority.

For Petitioner : Mr.R.Saravanakumar

For R1 to R5 : Mr.P.Raja,
Government Advocate

For RR6 & 7 : No appearance

O R D E R

The petitioner is a Diploma holder in Electronics and Communication Engineering [D.E.C.E]. She was appointed as Vocational Teacher in the 6th respondent School on 26.10.1998. The petitioner has been handling the subjects viz., Radio and TV Maintenance and Repairs - Vocational Theory and Practical I and II for the vocational stream of Higher Secondary course. The petitioner was appointed as a full time Teacher and was working permanently without any break in the vacancy caused due to the retirement of one full time Vocational Teacher viz., R.Chandrasekar on attaining his superannuation. The petitioner further submitted that Vocational Teachers were given only consolidated pay and they were brought on time scale of pay only in phases vide G.O.680 dated 20.09.1996 (235 teachers) and G.O.74 dated 10.06.2002 (126 teachers). The petitioner's name was forwarded by the 6th respondent to the 4th respondent, who in turn forwarded the name of the petitioner to the 2nd respondent for bringing the petitioner on time scale of pay. The petitioner is possessing necessary qualification and as such she was entitled to be brought on time scale of pay. The petitioner was in Serial No.91 in the list containing 213 Vocational Teachers. The 1st respondent vide G.O.Ms.No.35, School Education Department dated 09.02.2007, brought only 201 Vocational Teachers on the time scale of pay. The petitioner's name was not in the list of 201 Vocational Teachers, whereas her juniors who were appointed much later was brought on time scale of pay, which is illegal. The petitioner is fully qualified to the post of Vocational Teacher in Radio and TV Maintenance and Repairs and she has been appointed in permanent vacancy. To quash the impugned list dated 13.02.2007 issued by the 2nd respondent and for a direction to the 2nd respondent to regularize the service of the petitioner based on seniority in accordance with G.O.Ms.No.35, School Education Department dated 09.02.2007, the petitioner has come

out with the present Writ Petition.

2.The petitioner filed additional affidavit dated 26.09.2018 and submitted that she came to know the reason for non-selection of the petitioner through an information received under Right to Information Act vide letter dated 29.08.2007. The 2nd respondent sent a reply dated 18.12.2007 stating that in G.O.Ms.No.6 School Education (VE) Department dated 04.01.2000, for the vocational group "Radio and TV Maintenance and Repairs", the qualification prescribed was only Diploma in Electronics, whereas the petitioner was qualified in Diploma in Electronics and Communication Engineering and hence, the petitioner's name was not included. The petitioner further stated that she approached the 2nd respondent and informed that the Diploma in Electronics and Diploma in Electronics and Communication Engineering are one and the same. The 1st respondent by G.O.Ms.No.172 School Education (VE) Department dated 18.08.2008 issued clarification stating that Diploma in Electronics and Communication Engineering shall be substituted as the qualification in G.O.Ms.No.6 School Education (VE) Department dated 04.01.2000 for "Radio and TV Maintenance and Repairs" group and also declared that the amendment shall have retrospective effect from 23rd September, 1994. The petitioner is fully qualified and she is working in the permanent vacancy without any break in service and prayed to regularize her from the date of appointment in par with the similarly placed Teachers in G.O.Ms.No.35, School Education Department dated 09.02.2007.

3.The 5th respondent filed counter affidavit. In the counter affidavit, it has been admitted that the petitioner's name was forwarded in the list of 213 part time Vocational Instructors for approval to bring into regular establishment. The 1st respondent issued orders in favour of 201 Vocational Teachers vide G.O.Ms.No.35, School Education Department dated 09.02.2007. The 5th respondent has stated that the respondents are not responsible for any mistake if any found in the list and petitioner's name was not omitted by the 1st respondent without sufficient and valid reason. The 5th respondent also stated that the respondents have no objection for complying with the orders passed by this Court. The 5th respondent also stated that one post is kept vacant as per the orders of this Court dated 06.08.2009 made in M.P.No.2 of 2007 in W.P.No.7711 of 2007.

4.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents 1 to 5 and perused the materials available on record.

5.From the averments in the affidavit, additional affidavit and counter affidavit, it is seen that the petitioner was

appointed in permanent vacancy as Vocational Teacher to teach the subject "Radio and TV Maintenance and Repairs". According to the petitioner, she is fully qualified to hold the post when the 1st respondent decided to bring 213 Vocational Teachers on time scale of pay. The petitioner's name was included in the list dated 20.09.1996 in Serial No.91. The petitioner was not brought on regular time scale of pay. The 1st respondent has not given any reason for not bringing the petitioner on time scale of pay. The respondents in the counter affidavit also have not given any reason for not bringing the petitioner in the time scale of pay. On the other hand, they have stated that they are not responsible for any mistake, if any found in the list and that without any valid reason name of the petitioner would not have been omitted to be included in the selected list. The averments in the counter affidavit do not dispute that the petitioner is working in a permanent post from 26.10.1998 and she is fully qualified to hold the post. This Court directed the respondents to keep one post vacant by the order dated 06.08.2009. According to the respondents, one post is still kept vacant. For the reasons that petitioner is fully qualified and appointed in a permanent post and respondents have not given any reason for not bringing the petitioner in time scale of pay even though her name was included in the list, the respondents are directed to bring the petitioner on time scale of pay as per G.O.Ms.No.35 School Education Department dated 09.02.2007. Selection list containing 201 Vocational Teachers is dated 13.02.2007 and 213 Teachers are not made as parties in the Writ Petition, except the 7th respondent and therefore, the said list is not quashed, except directing the respondents to bring the petitioner into time scale of pay based on G.O.Ms.No.35 School Education Department dated 09.02.2007. The petitioner is entitled to all monetary benefits as per G.O.Ms.No.35 School Education Department dated 09.02.2007.

6. In the result, this Writ Petition is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते
Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsa
To

1. The Secretary to Government
State of Tamil Nadu,
School Education Department,
Fort St. George, Chennai 9.

2.The Director of School Education,
College Road,
Chennai 6.

3.The Joint Director of School Education
(Higher Secondary)
College Road, Chennai 6.

4.The Chief Educational Officer,
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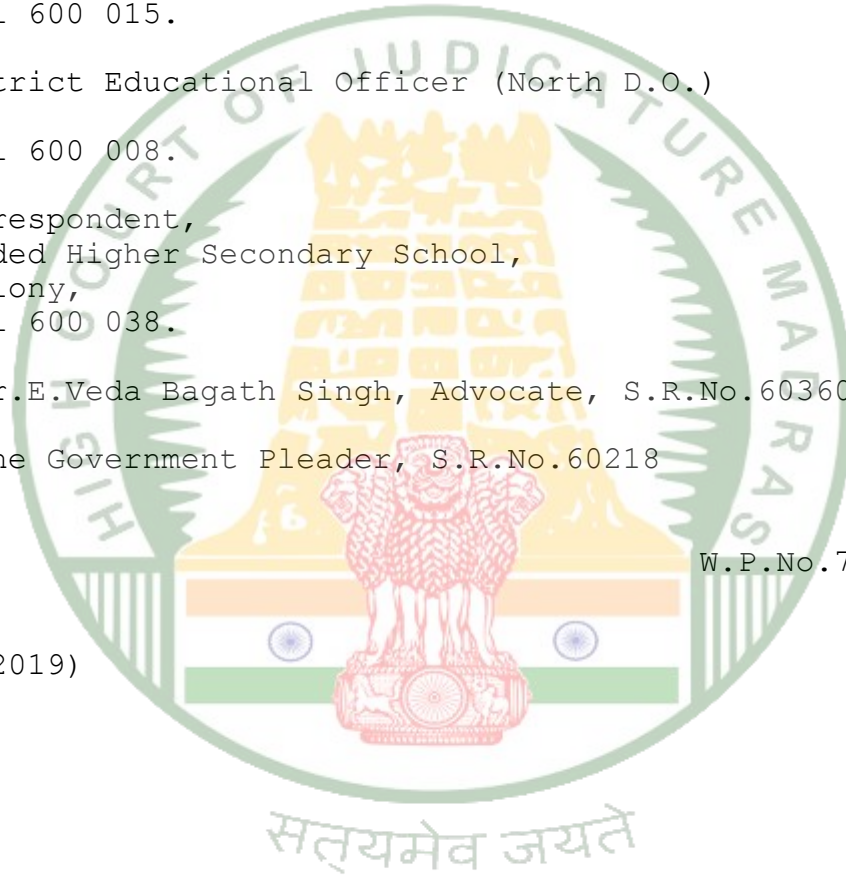
6.The Correspondent,
ICF Aided Higher Secondary School,
ICF Colony,
Chennai 600 038.

+1cc to Mr.E.Veda Bagath Singh, Advocate, S.R.No.60360

+1cc to the Government Pleader, S.R.No.60218

W.P.No.7711 of 2007

SP(29/08/2019)



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