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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.12.2019
CORAM:
THE HONOURABLE MRS.JUSTICE J.NISHA BANU
W.P.(MD) No.14508 of 2014

R.Venkatachalam ... Petitioner

-Vs-

1.The Chief Educational Officer
Karur

2.The District Educational Officer
Karur

3.The Correspondent
Marist Higher Secondary School
Karur
Karur District ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in this proceedings in O.Mu.No.5272/A3/2011, dated 08.02.2012 and quash the same and direct the respondents to approve the appointment of the petitioner from 22.01.1999 on regular scale of pay and confer all the consequential benefits.

For Petitioner : Mr.V.Panneer Selvam
For R1 & R2 : Mr.N.Shanmuga Selvam
Additional Government Pleader
For R3 : No Appearance

ORDER

The Writ petition has been filed to call for the records pertaining to the order passed by the 2nd respondent in this proceedings in O.Mu.No.5272/A3/2011, dated 08.02.2012 and quash the same and direct the respondents to approve the appointment of the petitioner from 22.01.1999 on regular scale of pay and confer all the consequential benefits.

2.The learned counsel for the petitioner would submit that the petitioner possessed the educational qualification of B.A. (Tamil) M.A.(Tamil), B.Ed., and M.Ed., in regular stream. He was appointed as Secondary Grade Teacher on 22.01.1999 in the permanent sanctioned vacancy due to resignation of one B.Petricia. The

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Management sent a proposal for approval, but the same was rejected on the ground that the petitioner is not having Diploma in Teacher Education. The learned counsel would further submit that the Government passed G.O.Ms.No.559, dated 11.07.1995 directed the Educational Authorities not to approve the appointment of B.Ed., teacher in the Secondary Grade Vacancy and the said G.O. was stayed by the Principal Bench of this Court. Ultimately, the Writ petitions were dismissed by an order dated 19.05.1998. Against which, a Writ Appeal has been filed and the same was also dismissed by this Court on 29.06.2001. While so, the learned Additional Advocate General suggested that the teachers appointed before the disposal of the Writ petitions could be given practical training to avoid hardships to the teachers. Hence, the Government issued G.O.Ms.No.155, dated 03.10.2002 to give one month Child Psychology Training for the teachers who are appointed between 11.07.1995 and 19.05.1998 and stated that on completion of such training, approval will be granted.

3.The learned counsel for the petitioner further submitted that before issuing G.O.Ms.No.155, dated 03.10.2002, the Government issued another G.O.Ms.No.79, dated 14.06.2002, upgrading all the Secondary Grade posts as Middle Grade Graduate Teachers with effect from 01.06.2002. Thereafter, the Government issued another G.O.Ms.No.150, dated 02.07.2007 granting approval to the appointment which were made during the period from 19.05.1998 and 29.06.2001. The petitioner was appointed as Secondary Grade Teacher with B.Ed., qualification on 22.01.1999. While so, one post of B.T.Assistant, Tamil became vacant due to promotion of Mr.R.Vincent Lurdhraj, Tamil Pandit as Headmaster. In the said vacancy, the petitioner was promoted as Tamil Pandit on 20.07.2004. That be so, the Government issued G.O.Ms.No.130, dated 27.09.2004 to approve the appointment on consolidated pay and accordingly, the petitioner's appointment was approved by the authorities with effect from 01.06.2003 on consolidated pay of Rs.4,000/-. In the approval order, they imposed condition that from 01.06.2003 to 19.07.2004 will not be considered for selection grade, special grade and pension benefits. Hence, the petitioner made request to grant approval as per G.O.Ms.No.79, dated 14.06.2002 and the same was forwarded by the third respondent to the second respondent on 01.09.2009. But the second respondent rejected the request by stating that G.O.Ms.No.150, dated 02.07.2007 is applicable only for 22 persons and the petitioner's name was not included in that list. Challenging the rejection order of the second respondent, dated 08.02.2012, the petitioner is before this Court.

4.The second respondent filed a counter affidavit stating that as per G.O.Ms.No.155, dated 03.10.2002, though the approval for appointment of B.T.Assistant in the Secondary Grade Teacher Post was given by the Department from the date of his appointment, he would be eligible to be considered for Secondary Grade Teacher salary from the date of completion of one month Child Psychology Training only.

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Since the petitioner was appointed on 22.01.1999 much later from the crucial period fixed as per G.O.Ms.No.155, he could not be sent to one month Child Psychology Training. Hence, he should be considered for getting salary as well as the other benefits from the date of his approval ie. from 01.06.2003 and not from 22.01.1999. Hence, he prays for dismissal of this Writ petition.

5.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2.

6.Perusal of record shows that the appointment made prior to issuance of G.O.Ms.No.79 dated 14.06.2002 is concerned, this Court issued direction to approve the appointment with effect from 01.06.2002. This Court has allowed the writ petitions in W.P(MD). Nos.2322 and 2323 of 2009 dated 24.11.2014, observed that the appointment of the teachers appointed after 19.05.1998 can be considered in terms of G.O.Ms.No.79, dated 14.06.2002 with salary and other benefits. Against which, the educational authorities has filed an appeal and the Hon'ble Division Bench dismissed the same by confirming the order of the learned Single Judge in W.A.(MD).Nos. 637 and 638 of 2015, dated 02.12.2016. The Hon'ble Principal Bench has also allowed the writ petition in W.P.No.26483 of 2005, dated 16.04.2014 with direction to approve the appointment with effect from 01.06.2002 with all service and monetary benefits as middle grade graduate teachers by following the earlier decisions. Now, the issue is settled by this Court that the appointment can be approved with effect from 01.06.2002 as per G.O.Ms.No.79, dated 14.06.2002. As per the decisions of this Court, the petitioner is entitled to get approval with effect from 01.06.2002 as per G.O.Ms.No.79, dated 14.06.2002.

7.Therefore, as per Government Order in G.O.Ms.No.79, dated 14.06.2002 as well as the order passed by this Court, the impugned order passed by the second respondent, dated 08.02.2012 is set aside and the respondents are directed to approve the appointment of the petitioner with effect from 01.06.2002, within a period of twelve weeks from the date of receipt of a copy of this order.

8.With the above direction, this Writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (crl side)

// True Copy //

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Sub Assistant Registrar(CS)

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To

1.The Chief Educational Officer
Karur

2.The District Educational Officer
Karur

+1 CC to Mr.V.PANNR SELVAM, Advocate (SR-105525[F]dated 18/12/2019)

+1 CC to SPL.GP (SR-105582 ,106006[F]dated 18/12/2019)

+1 CC to Mr.K.GOVINDARAJAN, Advocate (SR-105769[F]dated 19/12/2019)

W.P.(MD) No.14508 of 2014
17.12.2019

VB(10.01.2020) 4P 6C

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