



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.06.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P(MD)No. 10621 of 2011

C. Ponmalar

...Petitioner

Vs.

1. The Director,
Directorate of Employment and Training,
Guindy, Chennai - 32.

2. The District Employment Officer,
District Employment Office,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents-1 & 2 to restore the name of the petitioner in the live register of the 2nd respondent employment exchange with the same seniority dated 23.11.2001 as per decision of our Hon'ble Full Bench, dated 11.10.2007 in the review application Nos.14 & 15 of 2007 and direct the 2nd respondent to sponsor the petitioner's name against existing vacancies in the Government Schools as per the seniority, dated 23.11.2001 in the next selection process.

For Petitioner

: Mr.P.R. Prithvi Raj
for Mr.T.C.S. Thillainayagam

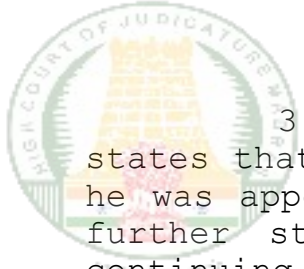
For Respondents

: Mr.S. Dhayalan
Government Pleader

O R D E R

The relief sought for in the writ petition is to direct the respondents-1 & 2 to restore the name of the writ petitioner in the life register of the 2nd respondent/employment exchange, Tirunelveli District with the same seniority, dated 23.11.2001, as per the decisions of Full Bench of this Court dated 11.10.07 in review application No.14 & 15 of 2007 and direct the second respondent to sponsor the petitioner's name against the existing vacancy in the Government School as per the seniority in accordance with the employment seniority.

2. The grievance of the petitioner is that his name was deleted from the life register maintained by the employment exchange for the purpose of sponsoring candidates for employment.



3. The learned counsel appearing for the writ petitioner states that the name of writ petitioner was deleted by stating that he was appointed in the private Aided School. The learned counsel further states that such private employment is not a bar for continuing the employment registration and the legal principles in this regard are settled by the Full Bench of High Court, Madras in the case of **R.Sivakumari and 17 others Vs.Ramanathapuram Mavatta Payirchipetra Edainilai Asiriyargal Sangam, represented by its Secretary, 2007(5) CTC, 561**. The relevant paragraph of the Judgment in Para No.39 is extracted hereunder:

"39. In the result, all the Review applications are allowed on the following terms:

(a). Persons who are in employment in Private aided Schools are not disqualified from having their names retained in the rolls of the Employment Exchanges. Therefore, the deletion of the names of persons already in service in Private Aided Schools, from the live registers of the Employment Exchanges, is violative of Articles 16 and 19(1) (g) of the Constitution and the same is not also authorised by any law.

(b). The demand made by the respondents for a No Objection Certificate from the Managements of the Private Aided Schools, for sponsoring the names of those candidates for recruitment to Government posts, is also illegal as it is not based upon any law.

(c). The cancellation of appointments of some of the selected candidates now sought to be made in pursuance of the Judgment of the Division Bench in W. P. No.910 of 2007 dated 05.04.2007 is illegal and hence, such cancellation orders shall be recalled and those persons will have to be reinstated in service.

(d). Persons already in employment in Private Aided Schools, whose names were deleted from the live register of the Employment Exchange shall have their names restored in the live registers with the same seniority and the Employment Exchanges are directed to sponsor their names against existing vacancies.

(e). The restoration of the names of already employed candidates in the live registers of the Employment Exchanges, pursuance to the above directions, shall not affect any of the selected candidates.

(f). All future recruitments shall be made only in accordance with the statutory rules and not in accordance with executive instructions which are inconsistent with statutory rules".

4. As per the proposition laid down by the Full Bench, the name of the writ petitioner is to be maintained in the life register of the Employment exchange concerned for the purpose of sponsoring the name of the writ petitioner in accordance with the employment seniority and by following the rule of reservation, whenever the opportunity comes.



5. Under these circumstances, the respondents are directed to restore the name of the writ petitioner in the life register of the Tirunelveli District Employment Exchange and accordingly, sponsor the name of the writ petitioner in accordance with the employment seniority and by following the rule of reservation as per the government rules in force.

6. Hence, the writ petition stands allowed. No costs.

Sd/-

Assistant Registrar (Crl.side)

/ True Copy /

Sub Assistant Registrar(CS-)

Ksa

To

1. The Director,
Directorate of Employment and Training,
Guindy, Chennai - 32.

2. The District Employment Officer,
District Employment Office,
Tirunelveli District.

+1 CC to M/s.T.C.S.THILLAI NAYAGAM, Advocate
(SR-67237[F] dated 06/06/2019)

+1 CC to M/s.SPL GP (SR-67399[F] dated 07/06/2019)

W.P[MD] No. 10621 of 2011
04.06.2019

ES/17.06.2019/3P/5C