

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2020

CORAM

THE HON'BLE MR.JUSTICE M. DHANDAPANI

W.P.No. 32247 of 2013
and
M.P.Nos. 1 to 3 of 2013

K.Hema

...Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
St. George Fort,
Chennai-4.
2. The Director of School Education
College Road,
Chennai - 6.
3. The Chief Educational Officer,
Kanyakumari District,
Nagercoil.
4. The District Educational Officer,
Thukalay.
5. The Secretary,
Anna Vinayagar Devasthanam Hr. Sec. School,
Ganapathipuram.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in Na.Ka.No. 34116/D1/E4/2013, dated 07.11.2013 and consequential proceedings of the fourth respondent in Na.Ka.No.5852/A1/2013, dated 20.11.2013 and to quash the same and further direct the respondents to pay salary and all other benefits continuously to the petitioner's.

For Petitioner : Mr.K. Sathishkumar
For Respondents : Mr.S. Suresh Kumar (For R2)
Government Advocate

ORDER

This Writ petition is filed to call for the records relating to the impugned order passed by the second respondent in Na.Ka.No. 34116/D1/E4/2013, dated 07.11.2013 and consequential proceedings of the fourth respondent in Na.Ka.No.5852/A1/2013, dated 20.11.2013 and to quash the same and further direct the respondents to pay salary and all other benefits continuously to the petitioner's.

2.The case of the petitioner is that she has acquired the educational qualification of B.Lit, M.A and B.Ed from the reputed Educational Institutions and thereafter she was appointed in the 5th respondent school, a non minority aided school, as B.T.Assistant (Tamil), in the year 2012, in a sanctioned post and the same was duly approved by the 4th respondent by his proceedings dated 21.06.2012. The petitioner was continuously working in the 5th respondent school and being paid salary till date, before termination her service. It is the averment of the petitioner that the 1st respondent issued a G.O.Ms.No.181, School Education(C2) Department, dated 15.11.2011, wherein 5 years relaxation was given to the teachers appointed and working in aided school before the commencement of the Act for passing Teacher Eligibility Test. Subsequently the 2nd respondent issued proceedings dated 07.11.2013 canceling the appointment of 499 teachers appointed after 15.11.2011 in the aided schools. In view of the above said proceedings of 2nd respondent, the 4th respondent has cancelled the approval of appointment without reference to the individual orders and accordingly the teachers were directed to be relieved from service. It is the grievance of the petitioner that pursuant to the said order, she is also about to be relieved from service by the 5th respondent. Left with no other alternative, the petitioner is before this Court challenging the impugned proceedings of the 2nd respondent.

3.Though very many grounds have been raised in this writ petition, learned counsel appearing for the petitioner, reiterated that the petitioner's appointment being made in a sanctioned post and the same having been approved by the competent authority without any conditions and salary having been paid, the act of the respondents in cancelling the appointment is bad. It is further submitted that vide G.O.Ms.No.181, dated 15.11.2011, a grace period of 5 years has

been given for passing the Teacher Eligibility Test. Hence, before expiry of the grace period, termination of the petitioner, based on the 2nd and 4th respondents impugned proceedings are liable to be quashed. According he prays for allowing the petition.

4. On the above contentions, this Court heard the learned Government Advocate appearing for the respondents and perused the materials available on record.

5. Basically Teachers Eligibility Test was introduced in the years 2011-2012 and 2012-2013 for the purpose of improving the teaching capacity of the teachers. The stand of the petitioner is that 5 years grace period has been prescribed in G.O. Ms. No.181 for successfully completing the Teachers Eligibility Test from the date of commencement of the Act, i.e., from 2009. However, without adhering to the same, the approval for the petitioner's appointment has been cancelled. Though the petitioner has placed the said argument before this Court, which, at first blush, looks attractive, however, a careful perusal of G.O. Ms. No.181 reveals that teachers who were not in possession of the minimum qualification of TET at the commencement of the Act, i.e., 2009, were granted grace period of 5 years to obtain the said qualification.

6. The Act came into force in the year 2009 and G.O. Ms. No.181 has been issued on 15.12.2011. However, the approval of the petitioner's appointment has been given only on 14.3.12, which clearly means that the petitioner was not in approved service even on the date when G.O. Ms. No.181 was issued. Further, it is not the case of the petitioner that she was well in service at the time of commencement of the Act, i.e., prior to 2009 and, therefore, the stand of the petitioner that the grace period is applicable to her to enable her complete TET is a clear misreading of G.O. Ms. No.181. The question of conduct or non-conduct of TET examination will not have any bearing on the case of the petitioner for continuance of her appointment, as on the date of the Act as also on the date of issuance of G.O. Ms. No.181, the petitioner not being in possession of TET qualification, the petitioner cannot claim right over the post in which she has been appointed. The said appointment will not clothe any special right on the petitioner for continuance of her appointment, as the petitioner has to fulfill the requisite eligibility criteria for being selected and appointed. In the absence of the requisite qualification, no right accrues on the petitioner for being continued in appointment. Therefore, the claim of the petitioner for continuance of her appointment does not merit acceptance and, accordingly, this writ petition deserves to be dismissed.

7. For the reasons aforesaid, this writ petition fails and the same is dismissed. Consequently, the connected miscellaneous petitions are closed. However there shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Jrs

To

1. The Secretary to Government,
School Education Department,
St. George Fort,
Chennai-9.
2. The Director of School Education
College Road,
Chennai - 6.
3. The Chief Educational Officer,
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Nagercoil.
4. The District Educational Officer,
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5. The Secretary,
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+1cc to the Government Pleader Sr.38889

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