

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.11.2020

Coram

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.23649 of 2014

Maqsood Begam

... Petitioner

-vs -

1.The Government of Tamil Nadu,
Represented by secretary to Government,
School Education Department,
Secretariat,
Chennai - 600 009.

2. The Director of Elementary Education,
Nungambakkam,
Chennai - 600 006.

3. The District Elementary Educational Officer,
Krishnagiri,
Krishnagiri District.

4. The Member - Secretary,
Teachers Recruitment Board,
Chennai - 600 006.

5. The Assistant Elementary Educational Officer,
Shoolagiri,
Krishnagiri District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue writ of Certiorari calling for the records of the third respondent relating to Pro.O.Mu.No.475/A3/2013, dated 09.01.2014 and quash the same and issue consequential directions to the First respondent to grant relaxation of stipulation if any, in favour of the petitioner with regard to evaluation of her Degree Certificate thereby allow the petitioner to continue in service.

For Petitioner : Mr.A.R.Suresh
for Mr.V.Thirupathi

For Respondents : Mr.S.Suresh Kumar,
Government Advocate for
RR1,2, 3 & 5
Mr.C.Munusamy,
Special Government Pleader for R4

ORDER

This writ petition has been filed to quash the order of the 3rd respondent in Pro.O.Mu.No.475/A3/2013, dated 09.01.2014 and for a consequential direction to 1st respondent to grant relaxation of stipulation if any, in favour of the petitioner with regard to evaluation of her Degree Certificate thereby allow the petitioner to continue in service.

2. The case of the petitioner is that she completed SSLC in Karnataka Secondary Education Examination Board with Hindi as 1st language and English as 2nd language. Thereafter, she acquired B.Sc degree in the year 1990 and B.Ed in the year 1991 through Bangalore University and registered her name in Employment Exchange. Subsequently, she was shortlisted for selection through Teachers Recruitment Board and directed to appear for certificate verification for appointment of Graduate Teachers for the years 2007-08 and 2008-09. Pursuant to certificate verification, she was selected provisionally for the post of Graduate Assistant on the basis of TRB ranking seniority. As she possessed the qualification of Hindi as 1st language in SSLC and PUC, she was posted in Panchayat Union Middle School (Urdu), though she was initially appointed as Graduate Assistant in Panchayat Union Middle school, Addakurukki. Subsequently, her services were regularised and probation was declared on 13.11.2012 A.N. However, due to the non-grant of evaluation certificate by the 3rd respondent on the ground that though the prescribed marks as per Tamil Nadu University is 40, the petitioner had secured only 39 marks in the 1st year B.Sc., resulting in issuance of the impugned order and aggrieved over the same, the present writ petition has been filed.

3. Learned counsel for the petitioner submits that her candidature was recommended by the Employment Exchange to Teachers Recruitment Board. Once on completion of certificate verification, the name of the petitioner was selected, then appointed and afterwards probation was also declared to her, which are all by way of process. It is fairly submitted that though the requirement as per the Universities in Tamil Nadu is

40 marks, however, only in the 1st year the petitioner has secured a mark less, i.e., 39 marks and in the subsequent year, she has secured 60 marks and, therefore, for the minor shortfall, the petitioner may not be penalised. Furthermore, it is his main contention that almost 3 ½ years after the appointment of the petitioner, the impugned order has been issued, which delay is fatal to the case of the respondents and that the petitioner cannot be made liable for such lapse on the part of the respondents. Thus, he prays that this Court may direct the respondents to grant relaxation of the stipulations and permit the petitioner to continue her service.

4. Mr.S.Suresh Kumar, learned Government Advocate appearing for the respondents 1, 2, 3 & 5 vehemently opposed the contentions of the learned counsel for the petitioner and submits that the petitioner has to satisfy the minimum marks prescribed by the universities in Tamil Nadu for obtaining evaluation certificate, which is a mandatory one. The suppression of facts has led to the issuance of the impugned order by the 3rd respondent. Reliance was placed on Rule 19 of the Tamil Nadu State and Subordinate Service Rules, which stipulates the conditions for declaring equivalence and issuance of equivalence certificate. It is further submitted that such a stipulation for granting equivalence certificate on the prescribed conditions being a policy decision of the Government, this Court may not interfere with the same. The petitioner has to satisfy the eligibility conditions stipulated and non-fulfilment of eligibility conditions would entail disqualification. Therefore, it is prayed for dismissal of the above petition.

5. This Court bestowed its best attention to the contentions advanced by the learned counsel on either side and perused the materials available on record.

6. It is not in dispute that the petitioner has scored one mark lesser in the 1st year B.Sc. Course than the one stipulated by Tamil Nadu University. Evaluation certificate is mandatory and the same is issued only on the basis of the provisions of the Rules. When the Rule, more especially Rule 19 prescribes certain stipulations as to when evaluation certificate can be granted, which is a policy drawn by the Government to equate the certificate issued by two different Universities and prescription of 40% being the norm followed in Universities in Tamil Nadu and the same having been approved by the equivalence committee, this Court cannot sit in appeal over the decision arrived by the experts in the field by directing the respondents to relax the conditions. It is always within the domain of the experts to decide on equivalence and this Court, being not an expert, cannot enter into the said domain and substitute its views to that of the experts. Therefore, this Court is not

inclined to interfere in the matter, as the issue having been decided by the expert committee and that the provision in the Rule being a policy decision by the State. Further, allowing dilution of the mandatory conditions, more so with regard to teachers, would have detrimental effect on the educational upliftment of the next generation. Therefore, this Court is not inclined to come to the rescue of the petitioner. Further, the question of delay pointed out by the petitioner cannot stand in the way of the respondents to take a decision, as the petitioner, having not fully eligible as per the Rule, cannot point a finger on the respondents claiming that the delay in their action is detrimental. When the petitioner is not clean, the petitioner cannot point the finger on the other person saying that the other party too is not clean and, therefore, she be granted relaxation. This Court in the fitness of things, is not inclined to interfere with the order impugned herein and direct grant of any relaxation of the mandatory requirements.

7. For the foregoing reasons, this Court is not inclined to issue any positive direction to the respondents at this juncture and, accordingly, this petition fails and the same is dismissed. No costs.

sd/
ASSISTANT REGISTRAR

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SUB-ASSISTANT REGISTRAR

vsi2

To

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Government of Tamil Nadu,
School Education Department,
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Chennai - 600 009.

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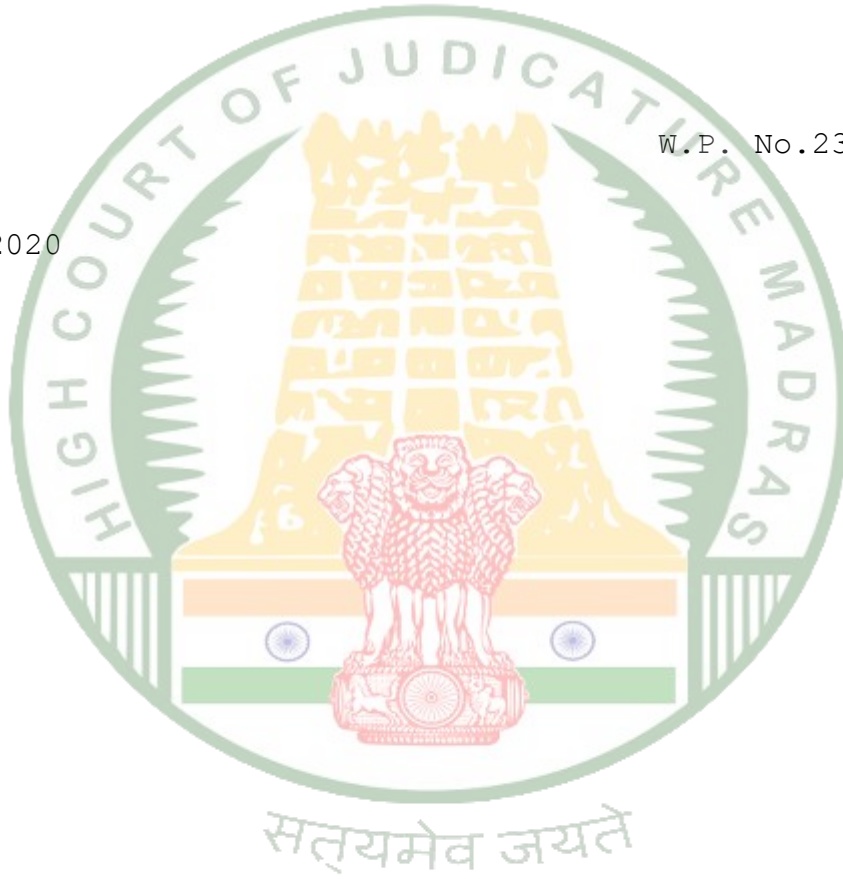
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+1 CC to Mr. V.Thirupathy, Advocate Sr.No.37999/20
+1 CC to The Government Pleader, High Court, Sr.No.37749/20

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GP (CO)
cs 19/12/2020



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