

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2020

CORAM

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

WP.No.34407 of 2019

R.Thangavel

.. Petitioner

- Vs -

1. Director of School Education,
College Road, Nungambakkam,
Chennai-600 006.
2. The Chief Educational Officer,
Erode-638 101.
3. The District Educational Officer,
Pollachi.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the 2nd Respondent to declare forthwith the completion of the Petitioner's probation in the cadre of 'Physical Education Teacher' considering the inordinate delay caused for more than 10 years from the date of selection and appointment in the light of the evaluation of the crucial Karnataka Physical Education Course Certificate by the 1st Respondent, completion of the Tamil Written and viva voce tests and the publishing of the same in the Tamil Nadu Government Gazette, the evaluation of the petitioner's S.S.L.C and+ 2 certificates too by the 3rd Respondent, apart from re-fixing the petitioner's seniority in the light of his selection not only on merits, but also on communal reservation giving 15th ranking out of 25 members Selection List dated 09.06.2008 besides re-fixing the petitioner's pay-scale on par with his batch mates disbursing the difference of his pay, increments and all allowances from June 2008.

For Petitioner	:	Mr.A.Amal Raj
For Respondents	:	Mrs.V.Annalakshmi
		Government Advocate

ORDER

This writ petition has been filed for the issuance of writ of Mandamus, directing the second respondent to declare the probation of the petitioner in the cadre of Physical Education Teacher and for re-fixing the pay-scale of the petitioner along with all attendant benefits.

2. The case of the petitioner is that the second respondent had notified 25 vacancies for the post of Physical Education Teacher by way of Direct Recruitment during the year 2007-08. The petitioner was asked to appear before the second respondent for certificate verification. A Selection List was published consisting of 25 names and the petitioner was placed at S.No.15. The name of the petitioner was withheld on the ground that he did not get his Karnataka Education Certificates Evaluated.

3. Out of the 25 vacancies, 22 persons were issued with posting orders as early as in June 2008. The petitioner filed a writ petition in WP.No.27561 of 2008 before this Court seeking for a direction to the second respondent to pass orders on the appointment of the petitioner as a Physical Education Teacher on the strength of the selection list that was prepared by the second respondent. This Court passed an order on 20.11.2008 and directed the second respondent to complete the evaluation of the service of the petitioner and pass appropriate orders within a period of two weeks.

4. After the orders were passed by this Court, the second respondent, by his proceedings dated 04.08.2009, appointed the petitioner as a Physical Education Teacher and the petitioner was posted at Government Higher Secondary School, Erode District.

5. The grievance of the petitioner is that the second respondent has continued to keep the petitioner as a probationer right from the year 2009 onwards and till date the probation has not been declared. As a result of the same, the petitioner has been denied the increment and other attendant benefits. Therefore, left with no other alternative, the petitioner filed the present writ petition before this Court seeking for direction to the second respondent to declare the probation of the petitioner in the cadre of Physical Education Teacher.

6. The only apprehension that has been raised by the petitioner in the second respondent not declaring his probation is that the SSLC and +2 certificates of the petitioner have not been evaluated and therefore, everything is being kept pending.

7. The learned counsel appearing on behalf of the petitioner submitted that the District Educational Officer, Pollachi has already evaluated the Education certificates of the petitioner and by his proceedings dated 26.09.2013, has already found it to be equivalent and valid. Therefore, the learned counsel submitted that the respondents cannot be allowed to take a different stand and refuse to declare the probation of the petitioner.

8. The learned Government Advocate appearing on behalf of the respondents submitted that the petitioner can be directed to make a fresh representation to the second respondent along with all the necessary certificates and orders will be passed within the time fixed by this Court for declaring the probation of the petitioner.

9. It is seen from the earlier order passed by this Court in WP.No.27561 of 2008 dated 20.11.2008 that this Court has already directed the second respondent to evaluate the certificates of the petitioner. The certificates were evaluated by the District Educational Officer, Pollachi and it was found to be valid. It is only, thereafter, the petitioner was appointed to the post of Physical Education Teacher. The very same issue cannot be again raked up while considering the declaration of probation of the petitioner. A process, which has already been completed, should not be again taken up and thereby, the declaration of probation insofar as the petitioner is concerned has been postponed for a long period of time, resulting in the petitioner being denied with the scale of pay and the attendant benefits. Yet another fact that has to be considered in this case is that the Physical Education Course Certificate that was essential for getting appointment, has already been evaluated by the first respondent and he, by his proceedings dated 14.11.2000 has found that the said certificate is equivalent to that of the Tamil Nadu Physical Education Certificate.

10. In view of the above discussion, no further delay must be caused in considering the request made by the petitioner for declaring his probation. The petitioner is directed to make a fresh representation to the second respondent along with all the necessary certificates and a copy of this order and the second respondent shall pass appropriate orders declaring the probation of the petitioner, based on the earlier evaluation that was made by the authorities and pass necessary orders, within a period of four (4) weeks from the date of receipt of a copy of this order. Once the probation is declared, the petitioner will be entitled for all other consequential benefits.

11. This writ petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(C.S.III)

/True Copy/

Sub Assistant Registrar

To

1. The Director of School Education,
College Road, Nungambakkam,
Chennai-600 006.
2. The Chief Educational Officer,
Erode-638 101.
3. The District Educational Officer,
Pollachi.

+1 cc to M/s.A.Amal Raj,Advocate Sr.No. 8439
+1 cc to The Government Pleader Sr.No.8584 and 6177

AKM/06.03.2020/4P-6C /

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