



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).No.20409 of 2013

R.Rajakumari

... Petitioner

-Vs-

1.The Principal Secretary to Government,
School Education Department,
Government of Tamil Nadu,
Fort St.George, Chennai 600 009.

2.The Director of Elementary Education,
College Road,
Chennai 600 006.

3.The Assistant Elementary Educational Officer,
Aranthangi, Pudukottai District.

... 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 bearing Letter No.5833/Ne.Va.2/2013 dated 05.08.2013 passed by the first respondent and quash the same and consequently direct the respondents to place the petitioner in the regular scale of pay.

For Petitioner : Mr.S.Anwar Sameem

For Respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

ORDER

The order dated 05.08.2013 passed by the first respondent is sought to be quashed. Further direction is sought for to direct the respondents to place the petitioner in the regular time scale of pay.

2.The petitioner was appointed as part time Craft Teacher on 24.03.1980. She was continuing as part time Craft Teacher and subsequently, converted as full time Craft Teacher and attained the age of superannuation during the year 2015 itself. The grievances of the writ petitioner is that, the regular time scale of pay was not granted to her. Contrarily, she was paid consolidated pay even after the conversion of post from part time Craft Teacher to full time Craft Teacher.

3.The learned counsel appearing on behalf of the petitioner reiterated that, the petitioner is entitled for regularization in



the regular time scale of pay. At least regular time scale of pay ought to have been extended for the petitioner after posting her as full time Craft Teacher. Thus, the petitioner is constrained to move the present writ petition.

4.The learned Additional Government Pleader appearing for the respondents made a submission that, as per G.O.Ms.No.1366, Education Department, dated 15.09.1986, One Man Commission required the minimum general education qualification for Craft Teacher working in middle school to be raised to SSLC and those Craft Teacher did not possess such minimum qualification of SSLC, were permitted to complete the same within a period of three years from the date of Government Order i.e., 15.09.1986. However, the petitioner acquired SSLC certificate only during the year 1996 i.e., after the lapse of ten years from the date of issuance of the Government Order. To that extent, the respondents filed counter affidavit, which reads thus:-

"As per the Rule 3 of the Tamil Nadu School Education Subordinate Service Special Rules, the appointing authority is the District Level Officer. But in the instant case the petitioner was appointed by the Assistant Elementary Educational Officer. Further, in terms of Rule 4 of the Special Rule, rule of relaxation was not followed in the appointment of the petitioner. Furthermore, as admitted by the petitioner till date no TTC certificate has been obtained by the petitioner in terms of the Rule 6(b) of the Special Rule. Hence, relaxation of rule 3, 4 and 6(b) is necessary.

8.Earlier the petitioner filed a writ petition in W.P(MD).No.8827 of 2008 before this Court to consider the representation. This Court by order dated 23.01.2013 directed the respondents therein to consider her plea in accordance with law. Thereafter, having considered all those irregularity in appointment of the petitioner and the dispossession of the SSLC and T.T.C.Certificate in right time, the first respondent rejected the plea of the petitioner vide letter No.5833/Ni.Va.2/2013 dated 05.08.2013. challenging the same, the present writ petition is filed.

9.The G.O.Ms.No.1529 is not applicable to the case of the petitioner herein, because the petitioner's appointment was made in violation of three rules namely Rule 3, 4 and 6(b) of the Tamil Nadu School Education Subordinate Service Special Rules. If the first respondent provide the same



the above said rules. Being the competent authority, the first respondent by using his discretionary power had declined to extend the benefit in favour of the petitioner and to that effect the present impugned order has been passed."

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5.This Court is of the considered opinion that, the service benefit including the regularization or the regular time scale of pay cannot be granted in violation of Rules. In the present case, the petitioner was not fully qualified for appointment to the post of Craft Teacher. The necessary Rules were also not in favour of the writ petitioner. Relaxation to the Rule is an administrative, prerogative and such an exercise is to be granted occasionally only for the deserving cases. The discretionary power granted to the Government Order to relax the Rules cannot be exercised in a routine manner. Rule is to be followed in all circumstances and grant of relaxation is an exemption. Thus, the relaxation of Rules are to be granted only on certain exceptional circumstances in order to mitigate the injustice, if any, caused to the individual or the group of individuals. This being the scope of the power of relaxation, this Court is of the considered opinion that the writ petitioner is not entitled for the relief as such sought for in the present writ petition.

6.Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmk

To

1.The Principal Secretary to Government,
School Education Department,
Government of Tamil Nadu, Fort St.George, Chennai 600 009.

2.The Director of Elementary Education,
College Road, Chennai 600 006.

3.The Assistant Elementary Educational Officer,
Aranthangi, Pudukottai District.

+1 CC to M/s.GP (SR-19879[F] dated 13/10/2020)

W.P.(MD).No.20409 of 2013

12.10.2020

BK(CO)

AP(06/11/2020) 3P 5C

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