



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P. (MD) No.4427 of 2020

P.Sridhar

...Petitioner

Vs

1. The Director,
Most Backward Classes/DNC Department,
Chepauk,
Chennai - 5.

2. The District Backward Classes and
Minority Welfare Officer,
Madurai District,
Collectorate,
Madurai-20.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent dated 21.02.2020 in Na.Ka.C1/5775/2019 and quash the same and consequently direct the respondents to pass order for re-employment with effect from 01.12.2019 upto 31.05.2020, in the light of G.O.Ms.No.93 dated 01.08.2012.

For Petitioner : Mr.K.Sudalaiyandi

For Respondents : Mr.K.Mu.Muthu

Additional Government Pleader

O R D E R

This Writ Petition is filed to call for the records pertaining to the impugned order passed by the second respondent dated 21.02.2020 in Na.Ka.C1/5775/2019 and quash the same and consequently direct the respondents to pass order for reemployment with effect from 01.12.2019 upto 31.05.2020, in the light of G.O.Ms.No.93 dated 01.08.2012.

2. Mr.K.Mu.Muthu, learned Additional Government Pleader takes notice for the respondents. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The case of the petitioner is that the petitioner was appointed on 22.08.2008 as a Tutor cum Warden at Government Boys Hostel (BC), Pazhayanoor, Sivagangai District by the District Collector of Sivagangai. On 29.11.2019, the second respondent has passed the order allowing the petitioner to retire from his service with effect from 30.11.2019, due to his superannuation. As



per Government order in G.O.Ms.No.93 dated 01.08.2012 issued by the first respondent, it was clearly stated that the persons who retired in the middle of the year shall be permitted to continue the service till the last working day of that academic year subject to some conditions. Hence, the petitioner has submitted his representation dated 05.11.2019 along with his fitness certificate to the second respondent, seeking permission to extend his service period till the last date of this academic year. Hence, the petitioner has filed a Writ Petition in W.P.(MD) No.1077 of 2020 and this Court has also passed an order, directing the first respondent to consider the petitioner's representation within a period of two weeks. On 21.02.2020, the first respondent has passed the impugned order refusing to re-employ the petitioner upto 31.05.2020. Hence, the present Writ Petition.

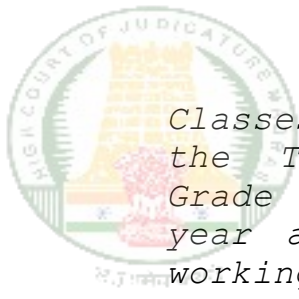
4. The learned counsel for the petitioner has submitted that it is not the case of the respondents that the petitioner was not having fitness. According to the learned counsel for the petitioner, the petitioner is fully qualified and the impugned rejection order has to be set aside. He placed reliance on the order passed by this Court in W.P(MD) No.11795 of 2011 dated 31.10.2011.

5. Per contra, the learned Additional Government Pleader, on instructions, submitted that as per the letter from office of the District Backward Classes and Minorities Welfare Officer, the request of the petitioner for re-employment cannot be accepted and hence, the impugned rejection order has been passed. Therefore, there is no need to interfere with the order passed by the second respondent.

6. On a perusal of the report sent by the second respondent to the first respondent has been clearly stated that there is no charge or criminal case pending against the petitioner. Also, there is no disciplinary proceedings pending against him. During his tenure, his conduct and character was good. That apart, there is no due pending, which has to be paid by the petitioner to the Government. He is also physically fit for continuing his job, for which he has enclosed the medical fitness certificate. It is not the case of the respondent that any other person has been appointed in the place of the petitioner. Further, it is to be noted that there are only few more months for completion of the academic year.

7. A perusal of the Government Order in G.O.Ms.No.93 dated 01.08.2012, relied on by the petitioner, paragraph 3 of the order reads as follows:-

3. The Government after careful examination, has accepted the proposal of the Director of Backward



Classes Welfare. Accordingly, the government direct that the Tutor-cum-Wardens/Tutor-cum-Matrons and Secondary Grade Wardens/Martrons who retire in the middle of the year are allowed to continue their service till last working day of that academic year or till the day of proportionate period of vacation earned by them as in the case of teachers subject to the following conditions:-

- a) He/she should be physically fit to continue in service
- b) The individual's character and work should be satisfactory in the re-employment period
- c) The individual should not give room for any complaints and attract any disciplinary action during the extension period
- d) The pay of the individual during the re-employment period and his pension should not exceed previous pay last drawn:
- e) The re-employment period will end on 31st day of May of every year or on the date of ending of academic year whichever is earlier;
- f) Rule 45 of General rule of Tamil Nadu State and Subordinate Service Rules should be followed
- g) If any over payment is due to be recovered from the individual the same should be recovered from the salary which is paid during the re-employment period.

Hence, it is crystal clear the petitioner is entitled for the benefit of G.O.Ms.No.93 dated 01.08.2012. Considering all these aspects, this Court is inclined to set aside the order impugned.

8. Accordingly, the impugned order passed by the second respondent dated 21.02.2020 in Na.Ka.C1/5775/2019 is hereby quashed and there shall be a direction to the respondents to re-employ the petitioner, within a period of two weeks from the date of receipt of a copy of this Order.

9. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



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+1 CC to MR.K.SUDALAIYANDI, Advocate (SR-10624[F] dated
09/03/2020)

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