



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2020

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.11596 of 2020

Nithyakala Rani

...Petitioner

-Vs-

1.The Commissioner,
Adi Dravidar Welfare Department,
Chennai-5.

2.The District Adi Dravidar and Schedule Tribes,
Welfare Officer, Dindigul,
Dindigul District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to sanction and pay the salary for the period covering from 01.07.2010 to 31.01.2011 by considering the representation of the petitioner dated 31.07.2018 and 21.11.2019 within a time frame that may be fixed by this Court.

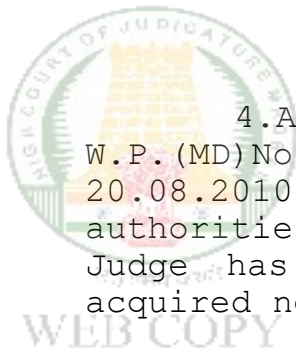
For Petitioner : Mr.S.C.Herold Singh
For Respondents: Mrs.J.Padmavathy Devi,
Special Government Pleader.

ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the respondents to sanction and pay the salary for the period covering from 01.07.2010 to 31.01.2011, by considering the representation of the petitioner dated 31.07.2018 and 21.11.2019, within a time frame that may be fixed by this Court.

2.The petitioner originally was appointed as Secondary Grade Teacher. Subsequently, on acquiring qualification, she was promoted and posted as B.T. Assistant on 01.06.1997 and in that post, she had been working.

3.When that being so, by proceedings dated 28.06.2010, the second respondent has reverted the petitioner to the post of Secondary Grade Teacher from B.T. Assistant for want of qualification.



4.As against the said order, the petitioner has filed W.P.(MD)No.8313 of 2010, which was disposed of by a learned Judge on 20.08.2010, where while confirming the order passed by the authorities, which was impugned in that Writ Petition, the learned Judge has observed that since the petitioner has subsequently, acquired necessary qualification, that shall be considered.

5.However, not satisfied with the said order of the Writ Court, the petitioner has preferred an appeal in W.A.(MD)No.638 of 2010, where the Division Bench of this Court, by its judgment dated 04.10.2010, had stayed the operation of the order passed by the second respondent dated 28.06.2010, reverting the petitioner from B.T. Assistant to Secondary Grade Teacher.

6.The said Writ Appeal was finally disposed of by another Division Bench of this Court on 30.10.2018, where the Division Bench of this Court was of the view that the petitioner since has acquired necessary qualification i.e., B.Lit., from the date of acquiring such qualification, she would be entitled to claim the post of B.T. Assistant, not prior to that. In this context, it is the case of the petitioner that the petitioner has acquired the qualification in May, 2003 and therefore, if at all the petitioner is not entitled to hold the post of B.T. Assistant from 01.06.1997, atleast from May 2003, she would be entitled to as per the judgment of the Division Bench of this Court as referred to above. Therefore, for the 7 months period from 01.07.2010 to 31.01.2011 since the petitioner had been reverted, she was not immediately given the posting of B.T. Assistant, despite the judgment of the Division Bench of this Court. In this regard, in the 7 months period, the petitioner could not work in the post of B.T. Assistant, that non-giving the post of B.T. Assistant for the 7 months period is not on the fault of the petitioner, even though the petitioner was entitled to hold the said post by virtue of her qualification and subsequent judgment of the Division Bench of this Court. Therefore, the petitioner has now sought for pay benefits for the said 7 months period, commencing from 01.07.2010 to 31.01.2011 and accordingly, she has given a representation dated 21.11.2019 to the respondents. Therefore, the learned counsel appearing for the petitioner would submit that if the said representation of the petitioner is directed to be considered by the respondents, in the light of the above judgment to that effect on merits, within a period that may be stipulated by this Court, the petitioner would be satisfied.

7.Heard Mrs.J.Padmavathy Devi, learned Special Government Pleader appearing for the respondents, who would submit that the said representation of the petitioner dated 21.11.2019 would be considered on merits by the respondents, especially, the first respondent, within a time frame that may be stipulated by this Court.



8.Considering the limited scope of the prayer sought for herein and after having considered the said submission made by both the learned counsel, this Court is inclined to pass the following order:-

"that the respondents are directed to consider the representation of the petitioner dated 21.11.2019 and pass necessary orders thereon, on merits and in accordance with law, by taking into account the judgment of the Division Bench of this Court referred to above and the same shall be undertaken by the respondents, within a period of eight (8) weeks from the date of receipt of a copy of this order."

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

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Myr

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Commissioner,
Adi Dravidar Welfare Department,
Chennai-5.

2.The District Adi Dravidar and Schedule Tribes,
Welfare Officer, Dindigul,
Dindigul District.

+1 CC to SGP (SR-16971[F] dated 15/09/2020)

Order made in
W.P. (MD)No.11596 of 2020

14.09.2020

SJ (CO)

NR (04/11/2020) 3P : 4C