



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2020

CORAM

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P (MD)No.10909 of 2014

and

M.P (MD)Nos.1 and 2 of 2014

P.Tamilselvi

.. Petitioner

Vs.

1.The Joint Director of Kallar Reclamation,
Madurai.

2.The District Revenue Officer,
Kallar Reforms, Madurai.

3.The Headmistress,
Government Kallar Higher Secondary School,
Melakkal, Madurai.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the 1st respondent made in Na.Ka.N H8/52531/2009, dated 01.07.2014 and quash the same and consequently directing the respondents to reinstate the petitioner and pay salary from the date of dismissal till the date of her reinstatement and also other monetary benefits and pass such further or other orders.

For Petitioner : Mr.Veera Kathiravan
Senior counsel for
Mr.C.Jeganathan,
M/s.Veera Associates

For Respondents : Mr.S.Dhayalan,
Government Advocate.

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the 1st respondent made in Na.Ka.No.H8/52531/2009, dated 01.07.2014 and quash the same and consequently direct the respondents to reinstate the petitioner and pay salary from the date of dismissal till the date of her



reinstatement and also other monetary benefits.

2.The case of the petitioner is that she had passed B.A. History and also Higher Grade in Free Hand Outline in Model Drawing, which was duly recognized by the Department of Government Examinations and she had registered her qualifications in the District Employment Exchange, Madurai. The Employment Exchange sponsored her name for appointment to the post of Drawing Instructor / Master. The 2nd respondent, by following the recruitment rules, appointed her as Drawing Instructor / Master and posted at Government Kallar Higher Secondary School, Melakkal, Madurai, by proceedings, dated 16.09.2008.

3.According to the petitioner, while she was working as Drawing Instructor, she was dismissed from service by proceedings, dated 01.10.2009, on the ground that she did not have the required qualification and the said order was challenged before this Court in W.P(MD)No.10142 of 2009 and this Court, vide order, dated 03.11.2009, set aside the same by giving liberty to the 2nd respondent to initiate proceedings afresh and also directed the 2nd respondent to reinstate her into service within a period of four weeks. The petitioner had rejoined the service on 03.12.2009 and requested for regularization of her services. Since there was no reply from the respondents, she filed W.P(MD)No.14456 of 2012, wherein, this Court, vide order, dated 18.12.2012, directed the 1st respondent to pass final orders on her representation seeking regularization within a period of eight weeks. Thereafter, the 1st respondent rejected the said request, vide order, dated 17.10.2013 and also sent a notice, dated 30.10.2013, stating as to why she should not be dismissed from service for not possessing the required qualifications. Against the rejection order, dated 17.10.2013, the petitioner also filed W.P(MD)No.18225 of 2013 and the same is still pending. Thereafter, the 1st respondent sent another communication, dated 23.06.2014, stating that her services should be terminated for not fulfilling the minimum qualification for the post of Drawing Instructor, for which, on 30.06.2014, she submitted a representation, dated 30.06.2014, stating that she is fulfilling all the required qualifications as per the Special Rules for the Tamil Nadu Backward Classes and Most Backward Classes Welfare Service. But, the 1st respondent has dismissed her from service, vide impugned order, dated 01.07.2014. Against which, the present writ petition has been filed.

4.The learned counsel for the petitioner submitted that the petitioner's name was sponsored by the Employment Exchange and she was appointed as Drawing Instructor / Master by following the recruitment rules. She has possessed Higher Grade in Free Hand Outline in Model Drawing, which was duly recognized by the Department of Government Examinations. The post of Drawing



Instructor is classified under the Special Rules for Tamil Nadu Backward Classes Welfare Subordinate Services. Since Kallar Reclamation Schools fall under the Backward Classes Department, the qualification prescribed for other schools, are not applicable to this school. After allowing the petitioner to continue in the said service for more than five years, the order of dismissal from service, is not proper. Thus, he prayed to allow this writ petition.

5.The learned Government Advocate appearing for the respondents submitted that as per G.O.Ms.No.125, School Education (X2) Department, dated 12.11.2003, the petitioner did not possess the requisite qualification for Drawing Instructor / Master.

6.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

7.The petitioner was appointed as Drawing Instructor by the second respondent, vide proceedings, dated 16.09.2008. The appointment was made by following the special rules applicable to backward classes. Perusal of records shows that the post of Drawing Instructor is classified as Class IV and Category III of the Special Rules for the Tamil Nadu Backward Classes Welfare Subordinate Service. The Special Rules clearly indicate that the required qualification to the post of Drawing Instructor / Master is a pass in the Government Technical Examination in Drawing by the Higher Grade. Since Kallar Reclamation Schools fall under the Backward Classes Department, the said schools are governed with Special Rules for the Tamil Nadu Backward Classes Welfare Subordinate Service. According to the petitioner, even in the reply got under the Right to Information Act, dated 05.11.2008, it has been stated that the appointments are made based on the Special Rules. Since the petitioner is in possession of the said qualification, she was appointed for the post of Drawing Instructor in the 3rd respondent school and she was allowed to continue in the said service for more than five years. G.O.Ms.No.125, dated 12.11.2003, relied on by the learned Government Advocate appearing for the respondents, is only applicable to the appointments made under the Tamil Nadu Recognized Private Schools (Regulation) Rules. The petitioner has also explained the above aspects, in her reply to the show cause notice. But, without considering any of her reply and without application mind, the 1st respondent has passed a cryptic order. Therefore, for the reasons stated above, this Court is inclined to interfere with the impugned order passed by the 1st respondent. Accordingly, the impugned order, dated 01.07.2014, passed by the 1st respondent, is quashed and the respondents are directed to reinstate the petitioner in service and pay the salary from the



date of dismissal till the date of her reinstatement and also other monetary benefits within a period of twelve weeks from the date of receipt of a copy of this order. The writ petition is allowed accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

WEB COPY

Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

smn

To

1.The Joint Director of Kallar Reclamation,
Madurai.

2.The District Revenue Officer,
Kallar Reforms, Madurai.

3.The Headmistress,
Government Kallar Higher Secondary School,
Melakkal, Madurai.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-5521[F] dated 10/02/2020)

+1 CC to M/s.SPL GP (SR-5585[F] dated 11/02/2020)

ORDER MADE IN
W.P(MD)No.10909 of 2014
10.02.2020

kg(CO)

TR(12.03.2020)4P 6C