



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2020

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

W.P (MD)No.305 of 2014

R.Kannappan

.. Petitioner

Vs.

1.The Secretary to Government,
Education Department,
Fort St. George,
Chennai - 600 009.

2.The Director of Elementary Education,
Chennai - 600 006.

3.The District Elementary Educational officer,
Pudukkottai.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records from the 3rd respondent in his proceedings No.Mu Mu 4600/AA.3/2013 dated 09.10.2013 and quash the same and consequently direct the 3rd respondent to regularize the service of the petitioner as Vocational Instructor from the date of his appointment 12.11.1975 in the light of Government Order in G.O.E.1520, dated 28.09.1988 by relaxing the educational qualification of the petitioner and pass such further or other orders.

For Petitioner

: Mr.C.Jegannathan

For Respondents

: Mr.N.Shanmugaselvam,
Special Government Pleader.

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records from the 3rd respondent in his proceedings in No.Mu Mu 4600/AA.3/2013 dated 09.10.2013 and quash the same and consequently direct the 3rd respondent to regularize the service of the petitioner as Vocational Instructor from the date of his appointment, i.e., 12.11.1975 in the light of Government Order in G.O.E.No.1520, dated 28.09.1988 by relaxing the educational qualification of the petitioner.



2.The case of the petitioner is that he was appointed as Part Time Craft Instructor (Vocational) on 12.11.1975 through Employment Exchange and thereafter, he was posted in Vagavasal Middle School functioning under the 3rd respondent till 16.08.1983. On 17.08.1982, there was a criminal case filed against him, for which, he was detained in judicial custody from 17.08.1982 to 08.09.1982. Thereafter, he was suspended from service and not allowed to join duty as per the oral instructions of the Assistant Elementary Educational Officer and he was orally terminated by the respondents. Therefore, he made numerous representations during the pendency of the criminal case. The Criminal Court on 08.03.1998, acquitted him and subsequently, he made a representation on 23.08.1998 requesting the Assistant Elementary Educational Officer, to allow him to continue his employment, as per the earlier instructions. Since, the said representation did not evoke any response from the respondents, he approached the Tamil Nadu Administrative Tribunal for reinstatement and by the order, dated 26.08.2002, the Tribunal, directed the respondents to allow him to join duty, as he was eligible to be reinstated in employment. Despite the same, he was not reinstated and several representations sent in this regard, were in vain. Hence, he filed W.P(MD)No.7024 of 2006 before this Court and this Court, vide order, dated 28.06.2006 directed the respondents to allow him to join duty and also to give posting as per the orders of the Tribunal. Even though, the order was passed on 28.06.2006 in the writ petition, he was given appointment only after four months, i.e., on 30.10.2006 by the respondent. Now, the petitioner is working as Vocational Instructor (Craft Instructor) in Sothuparai Middle School under the 3rd respondent. But, he has been paid only consolidated pay of Rs.1,845/- per month and his pay has not been properly fixed and his service has also not been regularised.

3.According to the petitioner, in G.O.Ms.No.385/Fin/Salary Department, dated 01.10.2010, it is stated that the employees who are working on daily wages and consolidated pay basis, are entitled for regularization of their service in any of the eligible vacancies after completion of 3 years of service. Based on the said G.O., he made a representation on 08.09.2010, seeking regularization of his service. Since the same has not been considered, he filed W.P(MD) No.1293 of 2011 and this Court, vide order, dated 02.08.2013, directed the 3rd respondent, to consider his representation. But, the 3rd respondent rejected his request, vide, impugned order, dated 09.10.2013. Against which, the present writ petition has been filed.

4.The learned counsel for the petitioner submitted that the Government of Tamilnadu issued G.O.E.No.1520, dated 28.09.1988 relaxing the educational qualifications in the case of Vocational Instructions, upon which, services of seven employees were regularized with all monetary benefits. The petitioner has



completed S.S.L.C. and the same was recorded by the 3rd respondent in his Service Register. Therefore, the rejection made by the 3rd respondent is discriminatory.

5.The learned Special Government Pleader appearing for the respondents submitted that the 3rd respondent rejected the request of the petitioner on the ground that he did not possess the requisite educational qualification as well as the technical educational qualification at the time of appointment. The Government vide G.O.Ms.No.1529, Education Department, dated 28.09.1988, granted exemption for possession of the requisite qualification, in respect of seven Pre-Vocational Instructions on the ground that they are over-aged. Therefore, the matter may be remanded back to the 3rd respondent for fresh consideration in the light of G.O.Ms.No.1529, Education Department, dated 28.09.1988.

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

7.It is not in dispute that the petitioner was appointed as Part Time Craft Instructor (Vocational) on 12.11.1975 through Employment Exchange. He served under the 3rd respondent for more than 35 years. He is above the age of 50 years. He seeks regularization of his service on the basis of G.O.Ms.No.385, Finance (Salary) Department, dated 01.10.2010, wherein it is stated that the employees who are working on daily wages and consolidated pay basis, are entitled for regularization of their services in any of the eligible vacancies after completion of 3 years of service. The 3rd respondent rejected his request stating that he has completed only 5th standard and he did not possess Technical Education Certificate. In this context, it is relevant to extract G.O.Ms.No.1529, Education Department, dated 28.09.1988, which reads as follows:

"The Director of School Education has sent proposal for exemption from the possession of Technical Teacher's Certificate and General Educational Qualification for seven Pre-Vocational Instructors as shown in the annexure to this order.

2.The required qualification for the post of Pre-Vocational Instructor is VIII Standard pass with T.T.C as the seven Pre-Vocational Instructors shown in the annexure to this order are not fully qualified for the post of Pre-Vocational Instructors, they are getting only consolidated pay with allowances. Most of these Pre-Vocational Instructors are above the age of 50 years and have put in long years of service as teachers. Further T.T.C. centre had been disbanded. Instructors are unable to acquire their requisite qualification as they now are over aged. The Director of



School Education has now recommended that the Pre-Vocational Instructors may be exempted from the possession of the requisite qualification and placed in the regular scale of pay.

3.The Government after careful examination decided to accept the recommendation of Director of School Education. They accordingly direct that the five Pre-Vocational Instructors (Serial No.1,2 to 6) shown in the annexure to this in the order) be exempted from the possession of T.T.C and the two Pre-Vocational Instructors Serial No.2 and 7) shown in the annexure to this order) be exempted from the possession of general educational qualification and T.T.C. The Government further direct that the seven Pre-Vocational Instructors be placed in the regular scale of pay of Rs.505-10-555- 15-615-20-795-25-845. This order shall take effect from the date of issue of this order.

4.This order issues with the concurrence of Finance Department vide its U.O.No.60857/A11.1/89-1 dated 3.6.88.

ANNEXURE

Sl. No.	Name and Occupation	Acquired Special Qualification and Educational Qualification	Date of joining as Pre-Vocational
1.	K.S.Ismail PVI,Chozhanmadevi, Coimbatore District.	S.S.L.C. failed	11.12.62
2.	M.Angappan, PVI Panchayat Union Middle School, Kothagiri, Nilgiris District	VII Std	1957, District Board School from 13.4.64 Panchayat Union Service
3.	T.Solaimalai, PVI P.U.Middle School Veeramatchampatti Thuraiyur Panchayat Union, Trichy.	IX Std Passed	5.4.67
4.	S.Sundaramoorthy, PVI Panchayat Union Ele. School, Mudur, Arakkonam	ESLC	6.8.62
5.	A.Sebastian P.U.Middle School, Alakkudi, Thanjavur District.	VIII Std. Passed	24.7.57
6.	M.Vopal, PVI Elangadu, Vandavasi Panchayat Union, North Arcot District.	SSLC Failed	2.9.63



7.	K.Gnanasamy, P.U.Middle Melravanthavadi, Arcot District.	PVI School North	V Std Passed	17.5.52
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WEB COPY The learned Special Government Pleader appearing for the respondents also submitted that the matter may be remanded back to the 3rd respondent for fresh consideration in the light of the above G.O.

8.In view of the above, the impugned order dated 09.10.2013 passed by the 3rd respondent is set aside and the matter is remanded back to the 3rd respondent and the 3rd respondent is directed to consider the request of the petitioner seeking regularization of his service and pass appropriate orders in the light of G.O.Ms.No.1529, Education Department, dated 29.09.1988, within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is allowed accordingly. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Secretary to Government,
Education Department,
Fort St. George,
Chennai - 600 009.

2.The Director of Elementary Education,
Chennai - 600 006.

3.The District Elementary Educational officer,
Pudukkottai.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-8113[F] dated 25/02/2020)

**ORDER MADE IN
W.P(MD)No.305 of 2014
24.02.2020**

VB(11.03.2020) 5P 5C