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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.3139 OF 2015

M.Manimegalai

... Petitioner

-Vs-

1. The Secretary to Government,
Education Department,
Government of Tamil Nadu,
St. George Fort,
Chennai - 600 009.
2. The Director of School Education,
College Road,
Chennai - 600 006.
3. The District Educational Officer,
Tenkasi, Tirunelveli District.
4. The Chief Educational Officer,
Tirunelveli.
5. The Correspondent,
Punitha Yowan Higher Secondary School,
Vadiyur - 627 861,
Tirunelveli District.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order in Mu.Mu.NO.045505/T2/E3/2013 dated 13.10.2014 passed by the 2nd respondent and quash the same and direct the Respondents 1 to 4 to conduct three months training to the petitioner and absorb as Full Time Craft Teacher on time scale basis with all monetary benefits from the date of absorption of similarly placed teachers within a time frame as may be fixed by this Court..



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For Petitioner : Mr.R.Kamaraj
For R1 to 4 : Ms.P.Rajeswari
Government Advocate
For R5 : Ms.N.R.Jasmine Padma

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioner was appointed as a Part Time Craft Teacher in the fifth respondent school on a consolidated pay of Rs.500/- per month, which post she continues to hold till date. The grievance of the petitioner herein is that she has not been absorbed as a Full Time Craft Teacher inspite of the recommendation of the District Educational Officer to the Directorate of School Education for absorbing her as a Full Time Craft Teacher, in their proceedings dated 09.06.2010.

3. In identical circumstances in the case of A.Vijaya vs. The Secretary to Government, Education Department and others passed in W.P.No.2721 of 2015, dated 28.04.2021, when similarly placed three Vocational Instructors (Craft Teachers) were not deputed for the three months training course and had continued as a Part Time Craft Teacher for considerable number of years, this Court was of the view that such a training was not required for a part time teacher who has put in number of years of service in the same position and thereby, directed the authorities to absorb the teachers on full time basis from the date on which the District Educational Officer had sent favourable proposals for such absorption. The relevant portion of the order reads as follows:-

"3. The petitioner herein was appointed as a part time Pre Vocational Instructor (Craft Teacher) on 01.07.1991 in the fourth respondent's school on a consolidated monthly pay of Rs.1,625/~. By virtue of G.O.Ms.No.224, (Education, Science and Technology) Department, dated 24.03.1994 and G.O.Ms.No.752, (Education, Science and Technology) Department, dated 18.10.1996, the qualified part time craft teachers employed in the State were ordered to be absorbed as Full Time Pre Vocational Instructors, subject to the condition that they shall not claim seniority as that of Secondary Grade Teachers. The Government Order also requires such part time Pre Vocational Instructors to undergo three months



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training course in the District Institute Educational Training of various Districts. The grievance of the petitioner is that though several representations were made to the official respondents, both by the fourth respondent-s school as well as the petitioner, she was neither subjected to the three months training course, nor absorbed as a Full Time Pre Vocational Instructor.

4. It is not in dispute that the petitioner was appointed as a Part Time Pre Vocational Instructor on 01.07.1991. Neither is the petitioner-s qualification of SSLC and TTC Course (Sewing) disputed. As such, the petitioner possesses the required qualifications to be absorbed as a Full Time Pre Vocational Instructor.

5. Though G.O.Ms.224, (Education, Science and Technology) Department, dated 24.03.1994, mandates the authorities to subject the Part Time Pre~Vocational Instructors to undergo the three months training course, the respondents herein had not subjected the petitioner to the training course. The only reason assigned in the counter affidavit for not extending the training course to the petitioner is that the petitioner herein, had not completed five years of service as on 24.03.1994, which is the date of passing of G.O.Ms.No.224. I am not in agreement with such a reasoning. G.O.Ms.No.224 dated 24.03.1994, specifically provides for extending training to Part Time Pre Vocational Instructors, in the third phase, as and when they complete the five years period. As such, there was a duty cast on the respondents to extend the training to the petitioner after 01.07.1996, on which date the petitioner would have completed five years of service. However, though the Government Orders referred above facilitate absorption of the Part Time Pre Vocational Instructors on Full Time basis on completion of five years of service, the second respondent had slept over the matter by not conducting the training and thereby constraining the petitioner to be on a meagre consolidated payment for almost 30 years.

6. The fourth respondent school had also submitted their proposals in the required format on 26.06.1999, pursuant to which, the third respondent herein had also sent a favourable proposal to the second respondent, through their proceedings dated



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16.08.1999 and the subsequent reminder dated 25.01.2011. There is absolutely no explanation as to the inaction on the part of these official respondents and even in the counter affidavit, not a single reason has been assigned for dis-entitlement of the petitioner-s absorption as a Full Time Pre Vocational Instructor.

7. In normal circumstances, it would have been appropriate to direct the respondents to conduct the three months training for the purpose of absorption of Full Time Pre Vocational Instructors. However, the fact remains that the petitioner has been serving as a Pre Vocational Instructor for almost 30 years. The very purpose of these short term training courses is to develop the skill of such Pre Vocational Instructors. By taking into account, the length of service the petitioner had put in, no useful purpose would be served if the petitioner is further subjected to a training, since the skill would have already accrued on her, during the course of her lengthy service.

8. Since the petitioner herein possesses the required essential qualifications for absorption as a Full Time Pre Vocational Instructor and also since this Court has observed earlier that she need not undergo three months training, it would be appropriate to direct the authorities to pass necessary orders for absorbing the petitioner on Full Time basis. In view of the fact that the proposal for absorbing the petitioner on Full Time basis has been sent by the fourth respondent school on 26.06.1999, which is acknowledged by the third respondent herein in his proceedings in Na.Ka.No.5648/A5/99 dated 16.08.1999, the petitioner herein would be entitled for absorption with effect from 26.06.1999. However, the petitioner will not be entitled to claim any seniority as a Secondary Grade Teacher, in view of the clarification issued under G.O.Ms.No.752, dated 18.10.1996."

4. In the instant case also, though the District Educational Officer had sent the proposals to the Directorate of School Education on 09.06.2010, recommending for absorption of the petitioner on a Full Time basis as a Craft Teacher, she was neither recommended to undergo the three months training course nor was the proposal for absorption considered.



5. This Court is of the view that the petitioner herein, who has been serving as a Part Time Craft Teacher for more than 25 years, would have gained the required experience for the post and a three months training at this juncture would not allure any better benefits. As such, the training period could be dispensed with and since favorable recommendations were made by the third respondent herein for absorption on 09.06.2010 itself, such date of proposal could be taken as a date from which the petitioner can be permanently absorbed. In this background, the reasons assigned in the impugned order denying regularization of the petitioner's services on full time basis cannot be sustained.

6. In the light of the above observations, the impugned order dated 13.10.2014 passed by the second respondent herein is quashed. Consequently, there shall be a direction to the second respondent to pass necessary orders, appointing the petitioner to the post of Full Time Craft Teacher with effect from 09.06.2010. The petitioner's absorption with effect from 09.06.2010 shall be treated as a service period, for all purposes, including calculation of her pensionable service. However, the petitioner herein shall not be entitled to claim seniority as that of the Secondary Grade Teachers. There shall be a further direction to the second and third respondents to pass orders disbursing the difference of salaries payable to the petitioner in the cadre of Full Time Craft Teacher from 09.06.2010 onwards, atleast within a period of four weeks from the date of receipt of a copy of this order.

7. The Writ Petition stands allowed, accordingly. No costs.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

hvk/ata

To

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



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

3. The District Educational Officer,
Tenkasi, Tirunelveli District.

4. The Chief Educational Officer,
Tirunelveli.

+lcc to Mr.R.Kamaraj, Advocate, S.R.No.66456

+lcc to the Government Pleader, S.R.No.67457

W.P.NO.3139 OF 2015

SJ(CO)
PBS/28/12/2021