



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.7850 of 2021

and

W.M.P (MD) No.5985 of 2021

B.Kohilaveni

... Petitioner

-Vs-

1.The Director of Elementary Education,
Nungambakkam,
Chennai-600 006.

2.The Chief Educational officer,
O/o.the Chief Educational Office,
Dindigul, Dindigul District.

3.The Chief Educational Officer,
O/o.the Chief Educational office,
Collectorate Campus,
Karur, Karur District.

4.The District Educational Officer,
O/o.the District Educational Office,
Palani, Dindigul District.

5.The District Educational Officer,
O/o.the District Educational Office,
Karur, Karur District.

6.The Block Educational Officer,
O/o.the Block Educational Office,
Palani, Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 5th respondent in his proceedings in ந.க.எண்;.547/m3/2020, dated 24.12.2020 and quash the same as illegal and consequently to direct the respondents to regularize the services of the petitioner as Secondary Grade Teacher w.e.f.03.01.2002 as was granted in respect of the similarly placed persons vide G.O.Ms.No.143, School Education (S-2) Department, dated 25.06.2007 and G.O(3D) No.128, School Education (G2) Department, dated 28.09.2011, within a period that may be stipulated by this Court.



For Petitioner : Mr.M.Md.Rafi
for M/s.Ajmal Associates
For Respondents : Mr.C.M.Mari Chellaiah Prabhu
Additional Government Pleader

ORDER

WEB COPY This Writ Petition is filed to quash the impugned charge memo, dated 24.12.2020, passed by the fifth respondent in e.f.vz;.547/m3/2020 and consequently to direct the respondents to regularize the services of the petitioner as Secondary Grade Teacher w.e.f. 03.01.2002.

2. Mr.C.M.Mari Chellaiah Prabhu, learned Additional Government Pleader takes notice on behalf of the respondents.

3. According to the petitioner, she belongs to Backward Community. She possessed Diploma in Teacher Education and she is fully qualified to be appointed as Secondary Grade Teacher. She registered her name in the District Employment Exchange, Karur. The third respondent taken steps to fill up the 207 posts of Secondary Grade Teachers, which arose in the year 2001. Out of 207 vacancies, 117 posts were reserved for OC and BC categories and 41 posts were reserved for MBC category and 49 posts were reserved for SC and ST categories. Though the petitioner was qualified and her registration number with Employment Exchange is within the cut-off date, she was not called for certificate verification. In the list of candidates forwarded by the Employment Exchange, her name did not find place. She ought to have been sponsored by the Employment Exchange. The third respondent conducted certificate verification on 03.01.2002 and 11.01.2002. Some of the candidates, who were called for certificate verification, were not given appointment due to the doubt about the genuineness of their nativity certificate. In respect of 11 similarly placed persons, the Government issued G.O.Ms.No.143, School Education (S2) Department, dated 25.06.2007 and in respect of one another similarly placed person, the Government issued G.O.Ms.(3D) No.128, School Education (G2) Department, dated 28.09.2011 and regularized their services with effect from 03.01.2002.

4. According to the petitioner, she is also similarly placed person and entitled to be regularized from 03.01.2002. Only due to verification of nativity certificate, the appointment of the petitioner in the year 2002 was denied. Subsequently, her nativity certificate was found to be genuine. The petitioner was appointed on 19.07.2004 on consolidated pay in Aravakurichi Union. She was brought under the time scale of pay only on 01.06.2006 and her service was regularized from 01.06.2006 and subsequently, she was transferred to Oddanchatram Union on 13.02.2007. The petitioner gave representation on 22.07.2019 to regularize her service with effect from 03.01.2002 and filed a writ petition in W.P.(MD)No.83 of 2020. In this Court, by order, dated 06.01.2020, directed the fourth



respondent therein to consider the representation of the petitioner, dated 22.07.2019 and pass orders on merits and in accordance with law. The respondent concerned rejected the same and hence, the petitioner has come out with the present writ petition.

5. The learned counsel appearing for the petitioner submitted that the impugned order rejecting the request of the petitioner is arbitrary. The Government Orders, referred to in the impugned order have been passed in respect of similarly placed persons and the same should be extended to the petitioner also. The petitioner ought to have been appointed as Secondary Grade Teacher as early as on 03.01.2002 itself and prayed for allowing the writ petition.

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

7. From the above materials, it is seen that the third respondent took steps to fill up 207 Secondary Grade Teachers in Karur District. He sought for a list of eligible candidates from the Employment Exchange. The Employment Exchange, Karur District, sent a list of eligible candidates. The name of the petitioner was not found place in the said list. It is not in dispute that the petitioner's name was not sponsored by the Employment Exchange and her name was not found in the said list. According to the petitioner, she was eligible to be appointed in the year 2002 itself, but she was appointed only on 19.07.2004. From the materials on record, it is seen that when the Employment Exchange did not sponsor the name of the petitioner in the year 2001, she has not taken any steps for sponsoring her name also. Some of the persons, who were called for certificate verification in the year 2002, were not given appointment as there was some doubt about the genuineness of their nativity certificate and they have appointed subsequently and as per the order of this Court, the Government considered their case and issued two Government Orders, namely, G.O.Ms.No.143, School Education (S2) Department, dated 25.06.2007, regularising the service of 11 candidates and G.O.(3D).No.128, School Education (G2) Department, dated 28.09.2011, regularising the service of one candidate with effect from 03.01.2002.

8. According to the petitioner, she is also similarly placed, like that of those persons, who were regularised from 03.01.2002. Therefore, she is also entitled to be regularised with effect from 03.01.2002. In this regard, the petitioner has given representation only on 22.07.2019, seeking regularization with effect from 03.01.2002 and writ petition in W.P.(MD)No.83 of 2020 was also filed. This Court, by an order, dated 06.01.2020, directed the concerned respondent to consider the representation of the petitioner. The third respondent, after considering the representation, rejected the request of the petitioner, for regularizing her from 03.01.2002, on the ground that the petitioner's name was not sponsored by the



Employment Exchange.

9. Admittedly, the petitioner's name was not sponsored by the Employment Exchange for being considered for appointment of Secondary Grade Teacher in the year 2001. The petitioner has not taken any steps for inclusion of her name at the time itself. Further, two Government Orders, namely, G.O.Ms.No.143, School Education (S2) Department, dated 25.06.2007, regularising the service of 11 candidates and G.O.(3D).No.128, School Education (G2) Department, dated 28.09.2011, regularising the service of one candidate with effect from 03.01.2002, relied on by the petitioner relate to persons, who were called for certificate verification, but were not given appointment due to doubt with regard to the genuineness of their nativity certificate. She was not considered for appointment, as she was not eligible on that date. In view of non-selection, she is not entitled for regularization from 03.01.2002, for the date on which, she has not worked. The petitioner is not similarly placed person, as she was not called for certificate verification and when she was not eligible and not considered, she is not entitled for regularization with effect from 03.01.2002 and also the petitioner has given representation only in the year 2019 itself.

10. For the above reasons, there is no infirmity in the impugned order, warranting interference by this Court. In the result, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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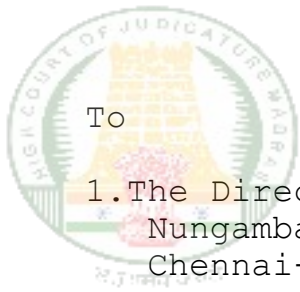
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Sub Assistant Registrar(CS)

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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 Director of Elementary Education,
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Dindigul District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-16129[F] dated
17/04/2021)

+1 CC to M/s.SPL GP (SR-16266[F] dated 17/04/2021)

W.P. (MD) No.7850 of 2021
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RK (29.04.2021) 5P 9C