



WEB COPY

W.A. (MD) No.106 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD) No.106 of 2019
and C.M.P. (MD) No.775 of 2019

1. Director of Elementary Education,
College Road, Chennai - 600 006.
2. The Chairman,
Teachers Recruitment Board,
College Road, Chennai - 600 006.
3. District Elementary Education Officer,
Thanjavur. ... Appellants/Respondents 1, 2 and 4

Vs.

1. S.V. Sandhya ... 1st Respondent/Writ Petitioner
2. District Employment Officer,
Nagercoil, Kanniyakumari District. ... 2nd Respondent/
3rd Respondent
3. Commissioner of Employment and Training,
Guindy, Chennai - 600 032. ... 3rd Respondent/
5th Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.(MD) No.1870 of 2011, dated 29.08.2017.

Prayer in WP(MD). 1870/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certioraraified Mandamus, to call for the records relating to the impugned order passed by the fourth respondent herein in his proceedings Na.Ka.No.4630/Aa1/2010 dated 10/02/2011 and quash the same and consequently direct the respondents herein to confer all consequential service and monetary benefits to the petitioner.

For Appellant : Mr.R.Baskaran
Standing Counsel for Government

For Respondent No.1 : Mr.Kannan for Mr.C.Jeganathan

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J U D G M E N T

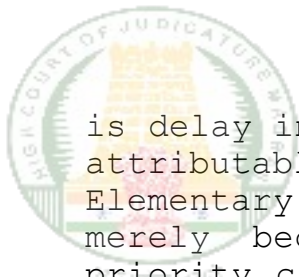
(Judgment of the Court was delivered by T. S. SIVAGNANAM, J.)

This Writ Appeal, filed by the Director of Elementary Education, College Road, Chennai and two others, is directed against the order dated 29.08.2017 in W.P.(MD) No.1870 of 2011. The said Writ Petition was filed by the first respondent, challenging the proceedings of the third appellant dated 10.02.2011, and to direct the appellants to confer all service and monetary benefits on the first respondent/writ petitioner.

2. According to the appellants, as on 31.12.2009, the date on which the first appellant's name was sponsored to the Teachers Recruitment Board, he has not registered his name in the Employment Exchange under the priority category as dependant of Ex. Servicemen and his registration falls on 19.02.2010. Therefore, the selection of the first respondent/Writ Petitioner is liable to be cancelled.

3. According to the first respondent/writ petitioner, the first respondent has been sponsored by the Employment Exchange and she was not sponsored under the dependent of Ex. Servicemen quota and when her name was sponsored to the Teachers Recruitment Board on 31.12.2009, she has not registered in the Employment Exchange under the priority category as dependent of Ex. Serviceman and she has registered her name only on 19.02.2010. Therefore, the Writ Appeal is liable to be dismissed.

4. In our considered view, the order of the third appellant is liable to be set aside on the following grounds: Firstly, the Teachers Recruitment Board has not rejected the candidature of the Writ Petitioner and the third respondent cannot take an unilateral action in nullifying an appointment order, which was granted pursuant to an recruitment done by the recruiting agency of the State and after recruitment, the first respondent was posted in the third appellant Department. Therefore, the order passed by the third respondent suffers from lack of jurisdiction. Secondly, the names of the candidates were sponsored by the Employment Exchange as per employment seniority. Therefore, even assuming that the first respondent/writ petitioner has not been registered as dependant of Ex. Servicemen, still the name was required to be sponsored on account of the first respondent's employment seniority. Thirdly, when the Teachers Recruitment did the recruitment process, which was solely based upon the assessment credentials of the candidate whose name was sponsored by the employment exchange based on the date of selection viz., 27.07.2010, and the writ petitioner was registered as a dependant of an Ex. Serviceman on 19.02.2010, the third respondent could not have cancelled the appointment of the writ petitioner. Above all, there is no dispute or denial of the fact that the Writ Petitioner's father was an Ex. Serviceman, who was discharged from the Armed Forces on 31.05.1993. Assuming that there



is delay in registration of the priority qualification, the delay is attributable to the employment exchange or the department of Elementary Education and the candidate cannot be made to suffer merely because the Employment Exchange belatedly recorded the priority category in the Employment Register and that will not take away the stator of the candidate, who claimed the priority category. However, in cases where the candidate has been sponsored under the priority quota, later found not eligible under the priority quota, then such candidates are not entitle for joining under the priority quota. However, in the instant case the first respondent/Writ Petitioner has registered as dependant of Ex. Serviceman on 19.02.2010, apart from that, as rightly held by the learned Writ Court, the impugned order was passed without any opportunity to the first respondent/writ petitioner. Thus, for the above reasons, we find no ground to interfere with the order passed by the Writ Court.

5. Accordingly, the Writ Appeal is dismissed. The appellants are directed to regularize the services of the respondent/writ petitioner and consequently, directed to pay the monetary benefits, consequent upon regularization. This direction shall be complied with within three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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. Director of Elementary Education,
College Road, Chennai - 600 006.

2. The Chairman,
Teachers Recruitment Board,
College Road, Chennai - 600 006.

<https://hcservices.ecourts.gov.in/hcservices/>



3.District Elementary Education Officer,
Thanjavur.

4.District Employment Officer,
Nagercoil, Kanniyakumari District.

5.Commissioner of Employment and Training,
Guindy, Chennai - 600 032.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-20985[F] dated
02/07/2021)

+1 CC to M/s.SPL GP (SR-21234[F] dated 05/07/2021)

W.A. (MD) No.106 of 2019
01.07.2021

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