



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No.14517 of 2014

V. Jeyapriya

:Petitioner

.vs.

1.The State of Tamil Nadu,
rep. By the Secretary to Government,
School and College Departments,
St. George Fort,
Chennai.

2.The District Educational Officer,
Seranmahadevi,
Tirunelveli -1.

3.The Correspondent,
Stella Mari's Girls Higher Secondary School,
Tisaiyanvilai,
Tirunelveli District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of certiorarified Mandamus calling for the records relating to the proceedings of the 2nd respondent in Ni.Mu.No.589 A1/2014, dated 02.2014 and quash the same insofar as non regularizing the petitioner's service from 15.06.2011 to 18.08.2013 and further directing the second respondent to regularize the petitioner service from 15.06.2011 to 18.08.2013 with all benefits entitled thereto.

For Petitioner : Mr. R. Balakrishnan

For respondents : Mr. R. Ragavendran
Government Advocate (Crl. Side)

O R D E R

This Writ Petition has been filed to call for the records relating to the proceedings of the 2nd respondent in Ni.Mu.No.589 A1/2014, dated Nil.02.2014 and quash the same insofar as non regularizing the petitioner's service from 15.06.2011 to 18.08.2013 with all benefits entitled thereto.



2. The petitioner was appointed on 15.06.2011 FN in the retirement vacancy that arose due to the retirement of one Grace Jeyaseeli Annathai in the third respondent school. The said appointment was approved by the Educational authorities on 29.02.2014. On the date of appointment, the petitioner was not qualified since she has not passed the Teachers Eligibility Test.

3. The Teachers Eligibility Test was prescribed under the Right of Children to Free and Compulsory Education Act, 2009 (herein after referred as "Act"). Section 23 of the " Act" has stated that any person possessing such minimum qualifications as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointing as a teacher. However, in the provision a relaxation has been granted, which says as under:

"23. Qualification for appointment and terms and conditions of service of teachers: (1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher.

(2) Where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notification.

Provided that a teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section(1), shall acquire such minimum qualifications within a period of five years.

(3) The salary and allowances payable to, and the terms and conditions of service of, teacher shall be such as may be prescribed."

4. Further extension of time was granted by the Gazette publication, dated 10.08.2017 for further period of four years. The amended portion of Section 23 of the "Act" reads as follows:

"Provided further that every teacher appointed or in position as on the 31st March, 2015, who does not possess minimum qualifications as laid down under sub-section



(1), shall acquire such minimum qualifications within a period of four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017 (24 of 2017)]”

5. In the present case, the Writ Petitioner has passed the Teachers Eligibility Test on 18.08.2013.

6. The respondents by the impugned order has regularized the service of the petitioner from the date of passing the Teachers Eligibility Test i.e., from 18.08.2013. The claim of the petitioner is that since the relaxation has been granted under Section 23 of the said Act, the respondents ought to have regularized her service right from the date of appointment i.e., from 15.06.2011 and not from the date of passing the Teachers Eligibility Test i.e. from 18.08.2013.

7. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

8. The petitioner is right in stating that the regularization date ought to be from the date of appointment. Since the provision clearly states that any teacher, who at the commencement of the Act does not possess minimum qualification as laid down under Sub Section (1) of the Act, shall acquire such minimum qualifications within a period of five years and a further extension of four years was granted.

9. The petitioner has qualified within the relaxation period and the petitioner is deemed to have qualified from the date of appointment. Therefore, the impugned order passed by the 2nd respondent is liable to be set aside and accordingly set aside.

10. In the result, this Writ Petition is allowed and the respondents / authorities are directed to regularize the petitioner's service from the date of original appointment i.e., on 15.06.2011 and grant all the consequential service and monetary benefits at the earliest. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

trp

To

1. The Secretary to Government,
School and College Departments,
St. George Fort, Chennai.

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



2.The District Educational Officer,
Seranmahadevi,
Tirunelveli -1.

3.The Correspondent,
Stella Mari's Girls Higher Secondary School,
Tisaiyanvilai,
Tirunelveli District.

+1 CC to M/s.R. BALAKRISHNAN, Advocate (SR-34211[F] dated
11/11/2021)

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RK/SKN(24/11/2021) 4P 5C