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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.04.2022

PRONOUNCED ON : 06.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.17044 of 2010

and

M.P.No.1 of 2010

S.P. Arunachalam

... Petitioner

Versus

1. The Chief Educational Officer,
Krishnagiri.
2. The District Elementary Educational Officer,
Krishnagiri.
3. The Assistant Director,
District Employment Office,
Krishnagiri.
4. The District Collector,
Krishnagiri District,
Krishnagiri.
5. The Teachers Recruitment Board,
College Road,
Chennai - 600 006.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the first respondent in Na.Ka.No. (A6) 5184/07 dated 10.02.2010, and quash the same and direct the first, second and fifth respondents to issue appointment order pursuant to the proceedings in Na.Ka.No.A6/7616/2005 dated Nil.11/2005 appointing the petitioner as Junior Grade Secondary Grade Teacher in any one of the Government or Panchayat Union Elementary Schools or Middle Schools under the control of the first, second and fifth respondents within a time limit as may be fixed by this court.

For Petitioner : Mr. M. Kamalanathan
Mr. Kamaraj



For Respondents: Mr. M. Alagu Gowtham,
Government Advocate
R1 to R5

ORDER

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Heard Mr. M. Kamalanathan, learned counsel for the petitioner and Mr. M. Alagu Gowtham, learned Government Advocate for the respondents.

2. The learned counsel for the petitioner would submit that this writ petition is filed by the petitioner namely Mr. S.P. Arunachalam challenging the order of the first respondent dated 10.02.2010 and consequently directing the respondents 1, 2 & 5 to appoint the petitioner as Junior Grade Secondary Grade Teacher in any one of the Government or Panchayat Union Elementary Schools or Middle Schools.

3. According to the learned counsel for the petitioner, the petitioner was originally born in Puliangudi Village, Sivagiri Taluk, Tirunelveli District. Thereafter, in the year 2004, he shifted his residence from Tirunelveli to Krishnagiri and started living at No.3/360, Periyar Nagar, Kattikanapalli, Krishnagiri along with his wife and daughter. Since he became a permanent resident of Krishnagiri, he made an application for registration in the Employment Exchange, Krishnagiri as a new registrant and on 05.04.2004, his name was registered, with his qualification of Teacher Training Diploma, after production of ration card as proof. Thereafter, in the year 2005, by its communication dated Nil.11.2005, the first respondent directed the petitioner to appear for certificate verification on 28.11.2005. Accordingly, he appeared for certificate verification and he was informed that appointment order will be duly sent to him. Thereafter, on 23.12.2005, the third respondent called upon the petitioner to produce the employment card and ration card and he submitted the same on 26.12.2005. Thereafter, even though the other candidates who appeared for certificate verification were appointed, the petitioner was not favoured with any appointment order. Therefore, he made a representation for which, the first respondent issued a reply on 26.06.2007 stating that the process has been completed and the appointment orders have been issued for qualified persons. Aggrieved by the same, the petitioner challenged the above order in W.P.No.27327 of 2007 before this court. By order dated 22.10.2008, this court, after holding that the said impugned order does not furnish any reason as to why the petitioner's case has not been considered, directed the first respondent to pass appropriate orders considering the petitioner's case. However, by the impugned order dated 10.02.2010, once again the first respondent erroneously rejected the case of the petitioner



and hence the writ petition.

4. The writ petition is resisted by the respondents by filing a counter affidavit. It is the case of the respondents that by the proceedings of the District collector, Krishnagiri dated 03.01.2006, as many as 93 registrations in the employment exchange, based on fictitious addresses given only for the purpose of registration, were ordered to be cancelled. The petitioner is one among them, since he was not living in the address given in the Employment Registration Card and only for the purpose of getting the job, he had given false address and registered at Krishnagiri. After the petitioner was called upon for certificate verification, simultaneously the verification of the genuineness of the residence of the job seekers was undertaken, and it was found that a total number of 127 persons, including 78 in Krishnagiri Taluk, had given fictitious address. Therefore, by proceedings dated 20.02.2006, the District Employment Officer was requested to delete those names as per the Rules. As a matter of fact, by communication dated 01.03.2006, the said names have been deleted and it was communicated to the District Collector by the District Employment Officer. Further, by a communication dated 13.03.2006, the said fact was also communicated to the District Elementary Educational Officer by the District Employment Officer. As a matter of fact, an order dated 26.07.2007 was passed by the District Elementary Educational Officer, Krishnagiri clearly intimating that upon enquiry, his address was found to be false. But however, the petitioner without challenging the said order, challenged the other communication alone dated 26.06.2007 in the earlier writ petition and accordingly this court had directed them to consider his case. Accordingly, his case was considered. Since the petitioner being a fresh registrant, there was no question of considering his case in the native district of Tirunelveli as it was not a case of transfer. As far as the District of Krishnagiri is considered, his name has already been removed from the registration, and accordingly he was informed by the impugned order. Therefore, the respondents would plead that there is no merits in the present writ petition.

5. I have considered the rival submissions made on behalf of both sides and perused the material records of the case. The petitioner was not appointed even though he was sponsored by the employment exchange for certificate verification for the fact that by the proceedings of the District Collector dated 20.02.2006, his name was found to be erroneously registered and therefore was not given appointment. The same was also informed to the petitioner by a communication dated 26.07.2007 itself. However, the learned counsel would rely upon the judgment of this court in W.P.Nos. 5982 of 2005 etc. dated 30.08.2006, and



would submit that so long as the registration certificate is not cancelled, the respondent is not justified in cancelling the employment registration alone. But however, perusal of the said judgment would reveal that was a case of migration from one district to another, where after obtaining the residence certificate from the authorities, the employment registration was transferred and therefore the same would not be applicable to the instant case.

6. It is the further contention of the petitioner that the direction of this court in the earlier writ petition in W.P.No.27327 of 2007 dated 22.10.2008 is positive in nature and the respondents ought to have considered the case at least in one of the districts. It is relevant to extract the findings and directions given in the earlier writ petition:

'5. It is the case of the petitioner that he has migrated from Trinelveli to Krishnagiri and had registered his name with the Employment office at Krishnagiri, when a call letter was sent to him he had appeared not only before the first respondent but also before the third respondent. However, though the call letter has been given to the petitioner, his case was not considered for posting and hence petitioner had to send representation to the respondents and finally the first respondent has passed the order stating that the call letter has been sent to the petitioner, the petitioner had produced the relevant records for attending an interview. Since the petitioner had produced the relevant records to show that he has required qualification for appointing him as a teacher it is for the respondents to appoint him or reject his request on certain tenable grounds. The impugned order does not disclose why the claim of the petitioner had not been given in the impugned order why the case of the petitioner has not been considered.

6. In view of the above facts and circumstances I am inclined to set aside the order of the first respondent dated 26.06.2007 and the first respondent is directed to consider the case of the petitioner for appointing him as Secondary



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Grade Teacher in any of the Government for Panchayat Union Schools, in the District which he belongs, and if for any reason the case of the petitioner could not be considered, the first respondent shall pass orders to that effect and the same shall be communicated to the petitioner. The said exercise has to be carried out within a period of eight weeks from the date of receipt of a copy of this order.'

7. Thus, on a perusal of the same, it would be clear that the direction is again to consider the case of the petitioner for the fact that the earlier order dated 20.06.2007 is set aside for want of reasons. That is why the petitioner did not file any application for contempt. However, it may be seen that the petitioner's case has been considered with reference to the Krishnagiri and it has been found that since his registration itself is cancelled, he was not considered for employment. Since he was a new registrant in the district of Krishnagiri and not a transferee, there was no occasion for the respondents to consider the case of the petitioner with reference to Tirunelveli. The petitioner also did not move any of the authorities in Tirunelveli. Thus, I find that the reasoning contained in the impugned order cannot be found fault with. This apart, the petitioner was aged about 44 years at the time of filing of the writ petition and now he is aged 56 years. Nothing is placed on record to show that he has cleared the Teacher Eligibility Test, which is now mandatory even to consider the case of the petitioner.

8. The learned counsel would rely upon the judgment of this Court in W.A.No. 3961 of 2019 dated 22.01.2020 for not possessing the said qualification but however it may be seen that was a case where the particular person was appointed to the post prior to the said qualification being prescribed. Therefore, it is not applicable to the present case. Therefore, the petitioner's case is liable to be dismissed on these additional reasons also. I find no merits in this case. The writ petition stands dismissed. However, no orders as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrn



To

1. The Chief Educational Officer,
Krishnagiri.
2. The District Elementary Educational Officer,
Krishnagiri.
3. The Assistant Director,
District Employment Office,
Krishnagiri.
4. The District Collector,
Krishnagiri District,
Krishnagiri.
5. The Teachers Recruitment Board,
College Road,
Chennai - 600 006.

+1cc to Mr. Kamaraj, Advocate, S.R.No.32606

+1cc to Mr.C. Kathiravan, Advocate, S.R.No.32989 (21/06/2022)

+1cc to the Special Government Pleader, S.R.No.32554

W.P.No.17044 of 2010

SKM(CO)
CT 13/06/2022