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W.P.No.2695 of 1996

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.2695 of 1996

S.Arputharaj

... Petitioner

Vs.

1.Government of Tamil Nadu,
Represented by its Secretary,
Education, Science & Technology,
Department, Fort St.George,
Madras – 600 009.

2.Director of School Education,
Madras – 600 006.

3.District Elementary Educational Officer,
Sankarankoil,
Nellai Kattabomman District.

4.Assistant Educational Officer,
Melannelithanallur – 627 953,
Nellai Kattabomman District.

5.Johns Elementary School,
Melannelithanallur Post,
Sankarankoil Taluk,
Represented by its Manager,
Sankarankoil.

... Respondents



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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 impugned order of the first respondent in G.O.Ms.No.788, Education Department, dated 31.07.1991 and quash the same in so far as the petitioner is concerned and direct the respondents to approve the appointment of the petitioner as Secondary Grade Teacher.

For Petitioner : Mr.B.Nedunchezhiyan

For Respondents : Mr.C.Selvaraj for R1 to R4
Additional Government Pleader
: R5 No appearance

ORDER

This instant Writ Petition has been filed seeking to quash the Government order in G.O.Ms.No.788, Education Department, dated 31.07.1991 and for a consequential direction to direct the respondents to approve the appointment of the petitioner as Secondary Grade Teacher. From the records, it is seen that the said Writ Petition was originally dismissed by an order dated 26.04.2002 and in an appeal filed against the same in Writ Appeal No.2047 of 2002, a Division Bench of this Court had set aside the judgment dated 26.04.2002 and remitted the matter back to this Court to decide afresh in light of the observation made therein.



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For better appreciation, relevant paragraph of the said order is extracted hereunder:

“9.This aspect did require consideration which has not been considered by the learned Single Judge while dismissing the Writ Petition. In the wake of fact that the appellant is continuing to serve the Institution and is also being paid salary, we find that the impugned judgment dated 26.04.2002 cannot be sustained and accordingly, the same is set aside, but, at the same time, the primary issue with regard to the validity of the Government Order in G.O.Ms.No.788, dated 31.07.1991 or its impact on the appointment of the appellant or even otherwise the continuity of the appellant in terms of the Government Order dated 20.08.1996 has to be adjudicated.”

2.Learned counsel for the petitioner stated that by the impugned order, the Government had taken a decision to appoint only women teachers in the Primary and Middle School. In view of the said policy, it had directed the existing teachers shall be re-employed to achieve the object that the standards 1 to 5 are handled only by women teachers. The Government, thereafter, by G.O.Ms.No.447, Education, Science &



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Technology, dated 16.07.1996 had permitted 10% of male teachers to be appointed, if there were no female teachers available. It was also further brought to the notice of this Court that by G.O.Ms. No.197, School Education Department, dated 21.07.2000, the Government after taking into consideration the difficulties faced by the women teachers to work in remote areas had directed 75% of reservation of women teachers to be appointed as teachers for class 1 to 5 and remaining 25% was directed to be filled from the general pool.

3.It is his further case that the petitioner was appointed as an Intermediate Grade Teacher at Johns Elementary School at Melnarikudi and his appointment was also recognised by the District Primary Education Officer, Tirunelveli in his proceedings dated 01.10.1996. The said order of recognition was made, subject to the result of the Writ Petition to be made in the instant Writ Petition.

4.According to the learned counsel for the petitioner, the impugned Government order has been superseded by the Government Order in



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G.O.Ms.No.197, dated 21.07.2000 permitting the appointment of the male teachers in the primary school. Therefore, all that is required is that the conditional order of recognition is made absolute and hence, sought for appropriate direction.

5.The learned Additional Government Pleader would agree that by the Government Order dated 21.07.2000, 25% of the teachers of the Primary School were permitted to be appointed from the general pool based on the rules. In this case, the petitioner was appointed as an Intermediate Grade Teacher in the 5th respondent School and since, the petitioner had obtained an order of interim stay in the instant Writ Petition, his appointment was recognised subject to the result of the Writ Petition.

6.I have considered the arguments made by the learned counsel appearing on either side and perused the materials available on record.

7.The Division Bench of this Court by order dated 04.03.2020 had directed the issue as to the validity of the impugned Government order to



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be considered in light of the subsequent facts. As admitted by the learned counsels appearing on either side the impugned Government order in G.O.Ms.No.788 has been superseded by the subsequent Government order in G.O.Ms.No.197, Educational Department dated 21.07.2000. Hence, I am of the view that there is no necessity to traverse any further, in view of the fact that the impugned order has already been superseded as stated supra. Hence, no further orders are required with regard to the challenge of G.O.Ms.No.788 dated 31.07.1991, impugned in the Writ Petition.

8.Considering the facts that the appointment of the petitioner has already been recognised, subject to the result of the Writ Petition and admittedly he is in continuous service pursuant to the interim orders passed by this Court and further in the fact of supersession of the impugned order by the subsequent G.O. dated 21.07.2000 permitting male Teachers also to be appointed, it would only be appropriate to direct the respondent to approve the appointment of the petitioner.



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9. In the light of the aforesaid findings and reasonings, this Court directs the respondents to approve the appointment of the petitioner. Accordingly, this Writ Petition is disposed of. However, there shall be no order as to costs.

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Index: Yes/No
Internet: Yes/No
gba

To

1. The Secretary,
Education, Science & Technology,
Department, Fort St. George,
Madras – 600 009.
2. Director of School Education,
Madras – 600 006.
3. District Elementary Educational Officer,
Sankarankoil,
Nellai Kattabomman District.
4. Assistant Educational Officer,
Melannelithanallur – 627 953,
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5. Johns Elementary School,



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Melannelithanallur Post,
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K. KUMARESH BABU, J.

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