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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.03.2022
Pronounced on : 06.04.2022

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.Nos.23850 & 28670 of 2016
and
W.M.P.Nos.20465, 24784 to 24787 of 2016

S.Uma

...Petitioner in both W.Ps

Vs.

1.The Directorate of Teachers Education,
Training & Research Institute,
College Road, Chennai-6.

2.The District Elementary Educational Officer,
Vellore District, Vellore.

3.The Additional Assistant Elementary Educational
Officer,
Kaniyambadi, Vellore-4.

4.The Secretary to the Government,
School Education Department,
Fort St.George, Chennai-9.

...Respondents in W.P.No.23850 of 2016

1.The Directorate of Teachers Education,
Training & Research Institute,
College Road, Chennai-6.

2.The District Elementary Educational Officer,
Vellore District, Vellore.

3.The Additional Assistant Elementary Educational
Officer,
Kaniyambadi, Vellore-4.

4.The Headmaster,
Panchayat Union Elementary School,
Kilarasampattu,
Kaniyambadi Panchayat Union,
Vellore District.

...Respondents in W.P.No.28670 of 2016



PRAYER in W.P.No.23850 of 2016: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in connection with the impugned order passed by him in Na.Ka.No.3567/A3/2011 dated 02.06.2016 and to quash the same and direct the respondents 1 & 4 to evaluate the equivalence of Teacher Training Certificate obtained by the petitioner dated 05.09.1988 from the Board of Pre-University Education, Government of Karnataka in the light of the Order No.ED 76 PTI 88, Bangalore dated 16.05.1988 issued by the Government of Karnataka and to hold that the petitioner is eligible to be appointed as Secondary Grade Teacher in Tamil Nadu within a reasonable time and regularize the service of the petitioner in the post of Secondary Grade Teacher and grant her all consequential service and monetary benefits.

PRAYER in W.P.No.28670 of 2016: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the 2nd respondent in connection with the impugned order passed by him in Na.Ka.No.798/A2/2011 dated 27.07.2016 (served on 02.08.2016) and quash the same.

In both W.Ps:

For petitioner	:	Mr.K.Venkataramani, Senior Counsel for Mr.M.Muthappan
For Respondents	:	Mr.L.S.M.Hasan Fizal, AGP for R1-R3

COMMON ORDER

These writ petitions have been filed to call for the records of the first respondent in connection with the impugned order passed by him in Na.Ka.No.3567/A3/2011 dated 02.06.2016 and to quash the same and direct the respondents 1 & 4 to evaluate the equivalence of Teacher Training Certificate obtained by the petitioner dated 05.09.1988 from the Board of Pre-University Education, Government of Karnataka in the light of the Order No.ED 76 PTI 88, Bangalore, dated 16.05.1988 issued by the Government of Karnataka and to hold that the petitioner is eligible to be appointed as Secondary Grade Teacher in Tamil Nadu within a reasonable time and regularize the service of the petitioner in the post of Secondary Grade Teacher and grant her all consequential service and monetary benefits and to call for the records of the 2nd respondent in connection with the impugned order passed by him in Na.Ka.No.798/A2/2011 dated 27.07.2016 (served on 02.08.2016) and quash the same.



2. The facts and circumstances that gave rise to filing of these writ petitions are as follows:

(i) The petitioner claims to have completed Pre-University Course at Corporation Junior College for Girls, Yogupalayam, Bangalore. According to her, she is qualified in PUC two year course and 12 months internship training in 1987. The Government of Karnataka in their letter dated 16.05.1988, has certified that students who were admitted to PUC education upto and including 1987-88 and successfully completed the course were to be treated as equivalent to erstwhile Teaching Certificate Holder (TCH).

(ii) On the basis of her qualification acquired from the Institution in Bangalore and being satisfied with her eligibility, the petitioner was appointed as Secondary Grade Teacher on 30.10.1996. After two years of appointment, the petitioner was ordered to be terminated by issuance of show cause notice on the ground that she did not possess the qualification for appointment to the post of Secondary Grade Teacher. Being aggrieved by the issuance of the order of termination, the petitioner challenged the same before the then Tamil Nadu Administrative Tribunal in O.A.No.2741/1998. The Tribunal after entertaining the application, granted interim stay of show cause notice of termination. Subsequently, the first respondent issued order on 16.12.1998 and consequential proceedings of the District Educational Officer on 24.12.1998, holding that the Karnataka Teachers Training Certificate produced by the petitioner cannot be considered as equivalent to the Secondary Grade Teachers Certificate in Tamil Nadu.

(iii) The petitioner once again approached the then Tamil Nadu Administrative Tribunal and challenged the above communication in O.A.No.209 of 1999. On abolition of the Tribunal, the matter was transferred to this Court and re-numbered as W.P.No.42778 of 2006. This Court vide order dated 16.06.2009, dismissed the writ petition but however, given liberty to the petitioner herein to approach the appropriate authority in the event of the petitioner acquiring necessary qualification in the meanwhile. The Court has also directed the authority to pass appropriate orders in case such representation is made, considering the length of service put in by the petitioner in the post of Secondary Grade Teacher.

(iv) Thereafter, the second respondent sent a proposal to the first respondent once again seeking evaluation report of the petitioner's Karnataka Teachers Training Certificate vide his proceedings dated 14.03.2011. Subsequently, on 09.01.2014, the first respondent sought from the petitioner any other additional qualification acquired by her which was equivalent to the



Secondary Grade Teacher Certificate for the purpose of evaluation. Thereafter on 20.11.2014, the second respondent sent the relevant papers along with the proposal indicating the educational qualification acquired by the petitioner, in the meanwhile. As there was no action forthcoming, the petitioner was once again constrained to approach this Court in W.P.No.4520 of 2016. This Court disposed of the above writ petition on 05.02.2016, directing the authorities concerned to pass orders on the proposal forwarded by the second respondent in his proceedings dated 20.11.2014, within the time stipulated therein.

(v) In pursuance of the direction of this Court, the first respondent has passed an order rejecting the claim of the petitioner by proceedings dated 02.06.2016, once again holding that the certificate obtained by her was not equivalent and valid for her appointment of Secondary Grade Teacher in the State of Tamil Nadu. Being aggrieved by the rejection order, the petitioner has approached this Court in W.P.No.23850 of 2016, notice was ordered in that writ petition. In the meanwhile, on 27.07.2016, the second respondent issued show cause notice as to why the petitioner should not be terminated from service. As against that, W.P.No.28670 of 2016, is filed before this Court.

3. Mr.K.Venkata Ramani, learned Senior Counsel reiterated the above facts briefly. According to him, the petitioner has been working as Secondary Grade Teacher for nearly 26 years, as of now. Although under orders of this Court, she has been continued, yet, the fact remained that for 26 long years, she worked as Teacher which fact cannot be denied. According to the learned Senior Counsel, her qualification of teacher training obtained in Karnataka Institution was valid and the same was not considered in proper perspective by the authorities in the State of Tamil Nadu.

4. The learned Senior Counsel alternatively contended that even otherwise subsequently the petitioner was also qualified in B.Lit (Tamil) in 2011 and completed her B.Ed Course in Annamalai University in 2013 and continued to teach as Secondary Grade Teacher. According to the learned Senior Counsel that in view of acquiring higher qualification by the petitioner which qualification was eligible to be appointed as B.T. Assistant, she can at least be continued as Secondary Grade Teacher on the basis of the higher qualification acquired by her, subsequently. The fact of acquiring B.Lit and B.Ed qualification had been duly informed to the Department by the petitioner. In this regard, the learned Senior Counsel would refer to the letter of the petitioner to the official concerned one dated 01.02.2012 and another dated 03.01.2014. According to the learned Senior Counsel that after rendering work for 26 long years, it is



unreasonable and inequitable that the petitioner is to be sent out on the basis of her initial qualification, not being equivalent to the Secondary Grade Certificate recognized in the State of Tamil Nadu.

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5. On behalf of the respondents, Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader entered appearance and filed a detailed counter affidavit. In the counter affidavit, it is stated that PUC Certificate obtained by her in the State of Karnataka could not be considered as equivalent to the Secondary Grade Teacher Certificate of this State. According to the averments in the counter affidavit, she has not undergone the two year Secondary Grade Teacher Training Certificate Course. The State of Tamil Nadu did not agree with the certificate with the order of the Government of Karnataka holding that the petitioner shall be appointed as Secondary Grade Teacher, Tamil Nadu. Particularly, in paragraph No.7 in the counter affidavit, the parameters of consideration for the purpose of evaluating Teacher Training Certificate acquired from other States are detailed as under:

"7.....

It is submitted that in so far as Tamil Nadu is concerned in regard to the evaluation of Secondary Grade Teacher Training Certificate obtained from other States, the following norms have been fixed by the Government vide G.O.Ms.No.1236, Education, dated 17.09.1984.

a) Teachers Training Certificate holders of Karnataka States should have passed their SSLC, in Tamil Medium with Tamil as 1st language or should have taken Tamil as 1st language in SSLC if they have studied in English Medium.

b) They should have obtained 50% of marks in aggregate in their SSLC as in the case of Teacher Training Certificate holders of Tamil Nadu.

c) They should have obtained 50% of marks in each subject in their Teacher Training Certificate as in the case of Teacher Training Certificate holders of Tamil Nadu.

d) If they studied in medium other than Tamil Medium in their SSLC as well as Teacher Training Certificate and satisfy the conditions 2 and 3, their certificate may be evaluated with a condition that they are eligible for appointment as Secondary Grade Teacher in Tamil Nadu only in schools where the medium of instruction in other than Tamil."

6. According to the counter affidavit that the Government



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Order dated 17.09.1984, has been upheld by this Court in the order rendered in W.A.Nos.1449 of 2007 etc. Since the certificate obtained by the petitioner did not fulfill the norms, the same cannot be considered as equivalent. Under Such circumstances, her service came to be terminated rightly.

7. The learned Additional Government Pleader appearing for the respondents reiterated the above facts and stoutly opposed to the grant of relief as prayed for in both writ petitions. As regards the alternative contention put forth on behalf of the petitioner by the learned Senior Counsel, the learned Additional Government Pleader would have two objections. First, the qualifications of B.Lit and B.Ed are higher than the basic qualification prescribed for appointment as Secondary Grade Teacher viz., Teacher Training Course. The subsequent qualification acquired as a matter of fact would make the petitioner eligible for appointment as B.T.Assistant. Therefore, she is over qualified to be considered for regularizing her services as Secondary Grade Teacher, as on date.

8. Second, from 2019 onwards, for appointment of a graduate teachers, pass in Teachers Eligibility Test (TET) is mandatory as per the notification of the Government in terms of the relevant special rules for the Tamil Nadu School Educational Sub-ordinate Service, Higher Secondary Educational Service and Elementary Educational Sub-ordinate Service. The petitioner herein is admittedly not passed in TET. In view of the prescription of pass in TET, it is not permissible to consider the claim of the petitioner on the basis of the subsequent qualification. He would therefore sum-up that the petitioner even otherwise cannot be considered for her retention in service for the above stated grounds.

9. This Court considered the submission of the learned Senior Counsel for the petitioner and the learned Additional Government Pleader for the respondents. Perused the materials and pleadings placed on record.

10. The only issue that arises for consideration of this Court is whether today the petitioner can said to be qualified for her retention as Secondary grade Teacher or not? Such consideration becomes imperative in view of the singular facts and circumstances of the case, namely that the petitioner rightly or wrongly has been continued in service from 1996 and till date.

11. In regard to the objections raised as to the refusal by the respondents to validate the training certificate (PUC) obtained by the petitioner in Karnataka Institution, this Court is not inclined to go into that aspect at all for the simple



reason that once the Equivalence Committee has taken a view in the matter, it is not for the Court to substitute its view in such technical matters. It is beyond the competence of the Court to substitute its opinion in the place of the views expressed by the competent Equivalence Committee or the Educational Authority. Judicial review in such matters is extremely and exceptionally limited.

12. In the counter affidavit, it has been explained about the parameters that are to be taken into consideration for evaluating the certificates obtained by the candidates from other States. In the teeth of such norms being prescribed and the certificate obtained by the petitioner did not fulfill the norms, it is not open to the petitioner to insist that her certificate was valid and ought to be accepted. The contention in this regard by the learned Senior Counsel, therefore, is to be rejected as legally unacceptable.

13. On the other hand, the alternative submission made by the learned Senior Counsel has considerable force, particularly, in the peculiar facts of the case, wherein, the petitioner has been continued in service for 26 long years. Although such continuance is under the orders of the Court and the pendency of litigation, yet, the fact of the matter is that she has rendered service as a Teacher for a long period of service and gained valuable experience in the field of teaching. In such circumstances any shortcoming or lack of equivalence in the certificate course underwent by her in the Karnataka Government ought to be wisely overlooked to meet the equity requirements of fair play and good conscience. Moreover, admittedly, the petitioner acquired B.Lit and B.Ed qualification in 2011 and 2013 itself. Although the qualification is said to be higher than the qualification of eligibility for appointment as Secondary Grade Teacher, yet, it cannot be stated today that the petitioner lacks basic qualification for appointment to Secondary Grade Teacher, factually.

14. In this regard, two objections have been raised on behalf of the respondents. One that by virtue of her obtaining B.Lit and B.Ed degree, the petitioner became over qualified to hold the post of Secondary Grade Teacher. This contention is of course cannot be brushed aside straight away as being invalid or incorrect. But, at the same time, in the extraordinary factual framework of this case, such qualification needed to be considered for the purpose of retaining the petitioner in service. After all the petitioner today has more than the qualification prescribed for appointment to the post of Secondary Grade Teacher. It is better that the petitioner is today over qualified than to be considered as not qualified at all. In such circumstances, the contention put forth on behalf



in this regard within a period of six weeks from the date of receipt of a copy of this order.

20. As far as W.P.No.23850 of 2016 is concerned, as this Court cannot sit in appeal over the decision of the expert Equivalence Committee, challenge to the decision is not maintainable and hence dismissed.

21. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

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To

- 1.The Directorate of Teachers Education,
Training & Research Institute,
College Road, Chennai-6.
- 2.The District Elementary Educational Officer,
Vellore District, Vellore.
- 3.The Additional Assistant Elementary Educational
Officer,
Kaniyambadi, Vellore-4.
- 4.The Secretary to the Government,
School Education Department,
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- 5.The Headmaster,
Panchayat Union Elementary School,
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GPL (CO)
RN(11/04/2022)