



W.P.No.35242 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.35242 of 2016

Tmt.S.Santha

... Petitioner

-Vs-

1. The State of Tamil Nadu,
Rep by its Secretary,
Education Department,
Secretariat, Chennai-9.
2. The Director of School Education,
College Road, Chennai-6.
3. The Chief Educational Officer,
Nagerkovil, Kanniyakumari Dt.
4. The District Educational Officer,
Kuzhithurai, Kanniyakumari Dt.
5. Shri Devi Girls Higher Secondary School,
Kollemcode, Kanniyakumari Dt.
Rep. by Special Officer /
District Educational Officer,
Kuzhithurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, call for the entire records connected with the impugned order passed by the 2nd respondent vide



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Na.Ka.No. 20465/D1/E3/2015 dated 02.06.2016 and quash the same and directing the respondents to upgrade the post of Secondary Grade Teacher of the petitioner as B.T. Assistant with effect from 01.06.2002 in the light of G.O.Ms.No.79 School Education Department dated 14.06.2002, with all consequential benefits in the light of the judgment passed in W.P.(MD).No. 1664 of 2005 dated 02.11.2006, in the case of ***R.Padma Sheela Rani Vs. State of Tamilnadu, and others.***

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mrs.S.Mythreyechandru
Special Government Pleader

ORDER

The order of rejection, rejecting the claim of the writ petitioner to upgrade the post of Secondary Grade Teacher as B.T.Assistant, is under challenge in the present writ petition.

2. The petitioner is working as Secondary Grade Teacher in the 5th Respondent Shri Devi Girls Higher Secondary School, which is an Aided School. The petitioner was appointed as Secondary Grade Teacher in the 5th respondent Aided School, due to the vacancy that arose on account of the retirement of one Tmt.Tulsi Bhai on 31.05.1997.



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WEB COPY

3. The petitioner states that she possess the qualification of M.A., B.Ed. Degree and she was appointed as a Secondary Grade Teacher. The proposal submitted by the School Management, for approval of appointment was returned on the ground that the petitioner was overqualified for the appointment to the post of Secondary Grade Teacher. Based on the Division Bench order of the High Court, the Government granted a concession in respect of the overqualified candidates to undergo Child Psychology Training and the petitioner had not completed the said training within the time limit. On completion of the Child Psychology Training by the writ petitioner on 24.06.2005, her appointment was approved by the competent authorities of the Education Department in proceeding dated 02.03.2012. Pertinently, the services of the petitioner in the post of Secondary Grade Teacher was approved by the competent authorities only in proceeding dated 02.03.2012 as a special case, since the petitioner had completed the Child Psychology Training from 25.05.2005 to 24.06.2005.

4. The Claim of the writ petitioner is that she is entitled to be upgraded to the post of B.T.Assistant based on the Government Order



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passed in G.O.Ms.No.79, School Education Department, 14.06.2002.

WEB COURT

In this regard, the petitioner submitted a representation to the competent authorities and the said representation was not considered. Thus, the petitioner filed W.P.No.2747 of 2015 and this Court passed an order on 18.03.2015, directing the respondents therein to consider and dispose of the representation submitted by the writ petitioner. Pursuant to the directions issued by this Court, the respondents considered the issue and passed the impugned order in proceeding dated 02.06.2016, rejecting the claim of the writ petitioner.

5. The learned Special Government Pleader made a submission that the writ petitioner was appointed as a Secondary Grade Teacher due to the retirement of the one Tmt.Tulsi Bhai. Since, the petitioner was overqualified, her appointment was not approved, pursuant to the order of the Division Bench, she was permitted to undergo Child Psychology Training which she had completed in the year 2005 and thereafter, her appointment was approved in the post of Secondary Grade Teacher in proceeding dated 02.03.2012. That being the factum, now the petitioner seeks upgradation to the post of B.T.Assisatant retrospectively with effect from the year 2002. In the year 2002, the appointment of the writ



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petitioner was not even approved and further, the Government Order in which the petitioner relied on, ie., G.O.Ms.No.79 dated 14.06.2002, is applicable only to the Government Schools and not to the Aided Schools.

6. The Government Order which is relied on by the petitioner ie., G.O.Ms.No.79 reveals that the benefit of upgradation from the post of Secondary Grade Teacher to B.T.Assistant is granted to the Government Schools or Municipal Schools and the Government Order was not extended to the Aided Schools. As far as the Aided Schools are concerned, they are governed under the provisions of the Private Schools Regulations Act, and only in the event of passing an order by the Government in the matter of upgradation, the petitioner who is working in an Aided School cannot claim the benefit of upgradation as a matter of right.

7. Upgradation is to be granted strictly in accordance with the scheme as it is a concession. Therefore, it cannot be claimed as an absolute right. This being the factum, the petitioner has not established any acceptable reason for the purpose of considering the relief as sought for.



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S.M.SUBRAMANIAM.J.,

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8. Accordingly, this writ petition stands **dismissed**. There shall be no order as to costs.

08.11.2022

Index : Yes
Speaking order
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To

1. The State of Tamil Nadu,
Rep by its Secretary,
Education Department,
Secretariat, Chennai-9.
2. The Director of School Education,
College Road, Chennai-6.
3. The Chief Educational Officer,
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