



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.No. 3466 of 2019
and
C.M.P.Nos.22187 of 2019 and 12336 of 2021

1. The Director of School Education,
Elementary Directorate
DPI-College Road,
Nungambakkam, Chennai-600 006.
2. The District Elementary Educational Officer,
Krishnagiri Post -635001,
Krishnagiri Taluk,
Now designated as District Educational Officer,
Denkanikottai.
3. Teachers Recruitment Board,
College Road,
Chennai-600 006.
4. The Chief Educational Officer,
Thiruvannamalai District,
Thiruvannamalai-606601.
5. The Assistant Elementary Educational Officer,
Thali Union, Denkanikottai Taluk,
Krishnagiri District- 635102
Now designated as Block Educational Officer,
Thalli.
6. The Headmaster,
Panchayat Union Middle School,
Kodakkarai Village-Doddamanchi Post,
Thali Union, Denkanikottai Taluk,
Krishnagiri District-635 102.

...Appellants

-vs-

M.R.Balasubramanian

...Respondent



Prayer: Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order dated 22.11.2018 made in W.P.No.26893 of 2016.

Prayer in W.P.No.26893 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for records relating to the second Respondent's letter Na.Ka.No.4574/A3/2015 dated 01.06.2016 and quash the same and to direct the respondents to regulate his appointment with retrospective effect from 24.11.2009 with all consequential benefits as directed by this court in W.P.Nos.29487 of 2010 and 7860 of 2016.

For Appellants : Ms. S.Mythreyechandru
Special Government Pleader

For Respondent : Mr.J.SelvaRajan

J U D G M E N T

S.VAIDYANATHAN., J
and
MOHAMMED SHAFFIQ., J

The Present Appeal has been preferred by the Government against the order dated 22.11.2018 made in W.P.No.26893 of 2016 in allowing the Writ Petition.

2. According to the Respondent/Writ Petitioner, he completed the Diploma in Teacher Education during the year 2005-2007 and registered his name with the Employment Exchange on 26.05.2008. Since he belongs to Scheduled Caste community and married a girl from other community, he is entitled to seek appointment under Special priority Category, namely, Scheduled Caste Inter Caste Marriage quota. While so, the Respondent/Writ Petitioner was called for certificate verification on 05.06.2009 on the basis of communal rotation, employment seniority and also on priority basis. As the Writ Petitioner has undergone the Diploma in Teachers Education in Karnataka State, he could not produce his Evaluation Certificate. The Third Appellant Board took a decision that he is not eligible to be considered for appointment to the post of Secondary Grade Assistant. Subsequently, the certificate of the Writ Petitioner was evaluated by the Director of Elementary Education, Chennai on 05.10.2009 and further, the decision on evaluation of the certificate, was communicated to the Writ Petitioner on 06.10.2009. The 3rd Appellant, vide proceedings dated 18.09.2009 called the Writ Petitioner to attend Certificate Verification on 07.10.2009 and the Writ Petitioner also attended the same and



produced all the certificates. Despite the same, no call letter with regard to the interview was received by him.

3. In this regard, the Writ Petitioner submitted several representations to the Appellants and as the same did not evoke any response, the Writ Petitioner approached this Court by way of filing W.P.No.29487 of 2010, wherein this Court has rendered a finding that since the mistake committed was purely on the part of the 3rd Appellant, the Writ Petitioner was not selected and therefore, in the event of selection and appointment to the post of Secondary Grade Assistant, his seniority has to be reckoned from the year 2009-2010.

4. This Court further held that in respect of the Academic Year 2010-2011, 1743 vacant posts were available and the concerned Employment Exchanges were directed to sponsor the candidates at the ratio of 1:5 by means of a letter dated 1.11.2010 after receipt of the names sponsored by the Employment Exchanges, the name of the Writ Petitioner, will have to be considered as a first person under the Special Priority Category, namely Scheduled Caste Inter Caste Marriage.

5. This Court, while disposing of the aforesaid Writ Petition directed the 3rd Appellant to take all necessary steps to consider the claim of the Writ Petitioner in terms of the said order dated 13.12.2010, based on which the Appointment Order was issued to the Writ Petitioner on 06.07.2015. Thereafter, he made several representations seeking regularization from 24.11.2009. As there was no response on the representation, yet another Writ Petition in W.P.No.7860 of 2016 was filed, seeking Writ of Mandamus directing the respondents to consider his representations dated 11.10.2015, 11.11.2015 and 26.12.2015 and to regularize his appointment with retrospective effect from the period from 24.11.2009, with all consequential benefits. The said Writ Petition was disposed of, by directing the Fifth Appellant to consider the representations of the Writ Petitioner and forward the same to the 2nd Appellant, who in turn, shall consider the same and pass appropriate orders, in accordance with law, despite which, the Appellants have not chosen to fix seniority of the Writ Petitioner with effect from 24.11.2009, which made the Writ Petitioner to again approach this Court by filing the Writ Petition in W.P.No.26893 of 2016.

6. Before the Writ Court, the learned Government Advocate appearing for the Appellants herein contended that the Respondent/Writ Petitioner was appointed as Secondary Grade Assistant, pursuant to the orders passed by this Court. The Writ Petitioner having not worked from 2009, is not entitled to get his seniority and other consequential benefits that would, not only, affect the seniority of the other candidates, who are



7. After hearing both parties, the learned Single Judge, vide order dated 22.11.2018, observed as follows:

8. Learned Single Judge went on to hold that when there is no fault on the part of the Writ Petitioner, the Appellants ought not to have denied the benefit of seniority to the Writ Petitioner and therefore directed the Appellants to regularise the seniority of the Petitioner from 12.11.2009, but however deprived the monetary benefits from 2009 till 2015. Being aggrieved over the same, the Appellants have filed the Writ Appeal.

10. The main contention of raised by the Appellants is that if the request of the Writ Petitioner to regularize the period of his seniority from 12.11.2009 is accepted, it will cause much financial burden on the State, as, by citing this order as precedent, there is every possibility of other similarly persons to approach this Court with the similar relief. A perusal of the order of the learned Single Judge shows that there was a direction issued only to regularize the seniority of the writ petitioner, by depriving the monetary benefits payable to the writ petitioner from 2009 to till 2015 and therefore, the question of financial loss to the Government does not arise at all and therefore, the present Appeal ought not to have been filed by the Appellants. Though it is a fit case to impose a cost of Rupees one Lakh to the Appellants, considering the present scenario, we refrain from doing so.

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