



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2022

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**THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

W.A.(MD) No.966 of 2021

I.Lilypushpam

.. Appellant/Petitioner

Vs.

1. The Director of Elementary Education,
Chennai-6.
 2. The Chairman,
Teachers Recruitment Board,
Chennai-600 006.
 3. The District Elementary Educational Officer,
Ramanathapuram.
 4. The District Employment Exchange Officer,
Ramanathapuram.
- .. Respondents/Respondent

Prayer : Writ Appeal filed under Clause 15 of Letters Patent against the order dated 26.11.2020 in W.P.(MD)No.14221 of 2014.

Prayer in WP(MD) . 14221/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 1st respondent in his proceedings in Na.Ka.No.4257/D1/2014, dated 8.5.2014 and quash the same consequently direct the respondents to appoint the petitioner as secondary grade teacher from the date on which her junior was given appointment on the basis of employment exchange registration seniority.

For Appellant : Mr.V.Paneerselvam

For Respondents : Mr.P.Subburaj,
Special Government Pleader
for RR1, 3 and 4

**J U D G E M E N T****PUSHPA SATHYANARAYANA, J.**

The appellant is the writ petitioner. Aggrieved over the order passed in the writ petition instituted by her, she filed the instant writ appeal.

2. The case of the appellant is that she passed Diploma in Teacher Education in April, 1996, having undergone the course in Anglo Indian School of the Department of Education, Government of Maharashtra, which is equivalent to the Diploma offered by the Government of Tamil Nadu. When she sought to register the certificates with the District Employment Exchange, Ramanathapuram, on 22.12.1999, the teaching educational qualification was not taken note of. According to her, the qualifications of similarly placed teachers were registered, the said benefit was denied to her and her qualification was registered only on 03.11.2006, after passing the improvement examination conducted by the State of Tamil Nadu. Hence, she filed W.P.(MD)No.289 of 2010 and the same was allowed on 14.09.2011 with a direction to the authorities to register her diploma with effect from 22.12.1999, which order was complied with.

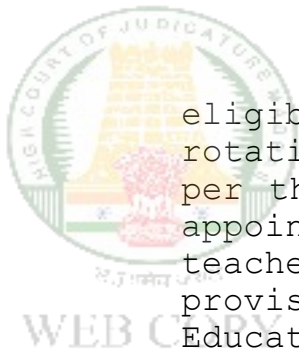
2.1. The appellant claimed that if her seniority is reckoned from the year 1999, her name would have been sponsored for appointment as Secondary Grade Teacher, which was the practice in place till 2007. Thus, the grievance of the appellant is that despite the registration of her qualification retrospectively, she was not considered for appointment. But some of the persons, who registered their qualification between 2002 and 2007, were considered for appointment. Claiming that she should be considered for appointment on par with her juniors, she gave a representation to the respondents on 25.11.2013. But there was no response, which necessitated her to file W.P.(MD)No.1150 of 2014 before this Court and a Division Bench of this Court vide order dated 23.01.2014 disposed of the writ petition directing the first respondent to consider the said representation on merits and in accordance with law and pass appropriate orders within a period of eight weeks. Pursuant to which, the order dated 08.05.2014 came to be passed, which is impugned before the writ Court in WP (MD)No.14221 of 2014, on the ground that the appointments are presently made only through the Teachers Recruitment Board (TRB) following the employment seniority and communal roster and also with a pass in Teachers Eligibility Test (TET).

2.2. The writ Court disposed of the said writ petition on 26.11.2020 with the following observations :

"5. The impugned order states that the teachers are not appointed directly by the Director of Elementary Education.

All the appointments to the post of teachers are made by the Teachers Recruitment Board. State-wise seniority is

maintained for the purpose of considering the names of



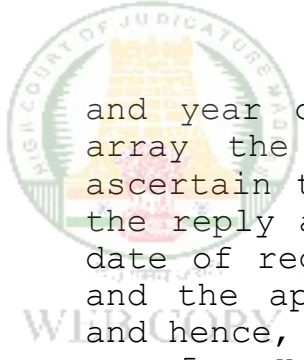
eligible persons. While considering the names, the communal rotations are also followed from the year 2009 onwards. As per the orders of the Hon'ble Supreme Court of India, the appointments are made State-wise and this apart passing of teachers eligibility test is also mandatory as per the provisions of the Right of Children to Free and Compulsory Education Act 2009 and as per the directions of the National Council for Teacher Education.

8. This Court is of the considered opinion that the case of the writ petitioner is to be considered with reference to her eligibility and State-wise employment seniority. Appointment cannot be claimed as a matter of right. Appointments are to be made strictly in accordance with the rules in force. Opportunity is to be provided to all the candidates who all are waiting for such appointments in the order of seniority. Thus, Courts cannot issue an appointment order, merely on the ground that the petitioner is fully qualified and some of her juniors were appointed. However, the petitioner has not cited the name of any such juniors who were implemented.

9. This being the factum, the relief as such sought for cannot be considered as there is any infirmity with reference to the reasons stated in the order impugned, dated 08.05.2014. However, the case of the petitioner is to be considered along with all other eligibility candidates in the order of her State-wise employment seniority and subject to fulfilling the eligibility and other criteria."

3. Heard the learned counsel for the appellant and the learned Special Government Pleader appearing on behalf of the State and the learned Standing Counsel representing the TRB.

4. The facts are not in dispute. Admittedly, the appellant claimed that she obtained Diploma in Teacher Education from the Education Department of Government of Maharashtra April, 1996, which is equivalent to the Diploma offered by the Government of Tamil Nadu. But she sought to register her educational qualification before the Employment Exchange only on 16.12.2005. However, the teaching educational qualification was not registered by the authorities for the reasons best known to them. But, she sought a direction before this Court only in the year 2010 that too to give retrospective effect from 22.12.1999. The fact that she registered her name for the first time only in the year 2005 was not brought to the notice of this Court and thus, the order dated 14.09.2011 came to be passed, which was complied with without any murmur. It is an admitted fact that the date of registration with the employment exchange alone would be the date for reckoning the seniority for the purpose of recommendation to the employment opportunities and not the acquisition of the qualification. Though the appellant claimed that some of her juniors in the employment registration got appointments, she did not attempt to find out their year of passing



and year of registration of the qualification. She also did not array the employment office as a party to the proceedings to ascertain those facts. Be that as it may, the second respondent, in the reply affidavit filed in this appeal, asserted that the cut-off date of registration for the BC and BC(W) candidates was 19.04.1999 and the appellant's registration was given effect from 22.12.1999 and hence, she did not fall within the zone of consideration.

5. Having failed to approach the employment office and also this Court in time, we are of the view that the attempt of the appellant to get away from writing TET and marching over the state-wise seniority list is nothing, but throwing a stone on the tree to pluck the fruits. It is made clear that if the appellant fulfills the eligibility criteria, it is for the authorities to consider her claim, for which, there is no bar, but at the same time, this Court cannot be made a party to circumvent the established procedure, which prevalent on the date, when she made a claim. In such view of the matter, it is open to the appellant to take any appropriate action in accordance with law.

6. For the foregoing reasons, there is no merit in the appeal and the same is liable to be dismissed. Accordingly, the writ appeal is dismissed as devoid of merits. No costs.

Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)

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To

1. The Director of Elementary Education,
Chennai-6.
2. The Chairman,
Teachers Recruitment Board,
Chennai-600 006.
3. The District Elementary Educational Officer,
Ramanathapuram.
4. The District Employment Exchange Officer,
Ramanathapuram.

+1 CC to M/s.V.PANNEER SELVAM, Advocate (SR-2130[F] dated 24/01/2022)

+1 CC to M/s.SPL.GP (SR-2012[F] dated 21/01/2022)

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