



W.P.(MD)No.453 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.453 of 2020

V.Swarnamugi

... Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
(Primary Education),
Secretariat, St. George Fort,
Chennai – 600 006.

2. The Director,
Directorate of Primary Education,
College Road,
Chennai.

3. The District Educational Officer,
Thoothukudi,

4. The Block Educational Officer,
Ottapidaram,
Thoothukudi District.

5. The Secretary,
Hindu Primary School,
Chandiragiri Melaseethalai Post,
Ottapidaram Taluk,
Thoothukudi District.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the third respondent to hold an enquiry for whether the petitioner actually served in the fifth respondent School from 01.06.2012 to 15.03.2014 for releasing her teaching grant-in-aid as per the petitioner's representation dated 23.09.2019.

For Petitioner : Mr.M.Sheik Abdullah
For Respondents : Mr.S.Shaji Bino
Spl. Govt. Pleader for R1 to R4
No appearance for R5

ORDER

This Writ Petition has been filed to direct the third respondent to hold an enquiry whether the petitioner actually served in the fifth respondent School from 01.06.2012 to 15.03.2014 for releasing her teaching grant-in-aid as per the petitioner's representation, dated 23.09.2019.

2. The case of the petitioner is that the petitioner had completed Diploma in Teacher Education in the year 2009 at Mahatma Gandhi Teacher Training School, Solaiseri, Tirunelveli District and the same has been registered in the District Employment Office, Thoothukudi on 21.01.2010. On 11.05.2012, she was selected as Secondary Grade Teacher by the fifth



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respondent and she has joined duty on 01.06.2012. Thereafter, the fifth respondent instructed the petitioner orally to fulfil the prescribed qualification within a time limit given by the Government. In the meanwhile, on 17.03.2014, she has been terminated by her employer, i.e., fifth respondent, due to non-fulfilment of TET qualification. In this regard, she made several representations to the respondents for disbursement of benefits. However, no order was passed. Hence, she filed a Writ Petition before this Court in W.P.(MD)No.8800 of 2014 to reinstate her in the fifth respondent School. This Court, by an order, dated 28.03.2018, directed the third respondent to hold an enquiry as to whether the petitioner herein actually served from 01.06.2012 to 15.03.2014. The writ petitioner as well as the fifth respondent are permitted to place the relevant materials in support of their claim. If the third respondent comes to the conclusion that the writ petitioner was actually appointed with effect from 01.06.2012 and she served till 15.03.2014, the third respondent will release the teacher grant-in-aid in respect of the writ petitioner for the said period also. The fifth respondent was also directed to reinstate the petitioner with effect from 01.04.2018. Pursuant to the order of this Court, the petitioner has been



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reinstated into service without any remuneration. But so far, the third respondent did not hold any enquiry regarding the actual service from 01.06.2012 to 15.03.2014 for grant of teaching aid. Hence, she made a representation to the third respondent on 23.09.2019 for granting monetary benefits. But, till date, no order was passed. Therefore, the petitioner has filed the present Writ Petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that though the petitioner's appointment was not approved by the Government, she is entitled to receive salary for the service rendered in the fifth respondent School. Accordingly, he prayed for allowing the Writ Petition.

4. The learned Special Government Pleader appearing for the respondents would submit that pursuant to the order of this Court, dated 28.03.2018, the fifth respondent reinstated the petitioner into service from 01.04.2018. G.O.(Ms).No.181, School Education Department, dated 15.11.2011 prescribed Teachers Eligibility Test (hereinafter referred to as



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'TET') as minimum qualification for appointment of Teachers from I to VIII Standards and the proceedings of the third respondent dated 30.04.2012 has been issued, to fill up the vacancy of Secondary Grade Teacher in the fifth respondent School, with specific condition that only TET qualified person alone should be appointed. Hence, he prayed for dismissal of this Writ Petition.

5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. The facts in the present case are not in dispute. The petitioner joined as Secondary Grade Teacher on 01.06.2012 in the fifth respondent School and she was terminated within a period of two years, i.e., on 17.03.2014 for non-fulfilment of TET qualification. Hardly, the petitioner served less than two years. However, the petitioner has not produced any records to show that her appointment was approved by the Competent Authority. A perusal of the counter affidavit reveals that the National Council for Teacher Education being the academic authority under the Right



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of Children to Free and Compulsory Education Act, 2009 prescribed minimum qualification of TET for the appointment of Teachers for I to VIII Standards as per the notification dated 23.08.2010. Therefore, the State Government vide G.O.(Ms).No.181, School Education Department, dated 15.11.2011, prescribed TET as minimum qualification for appointment of Teachers from I to VIII Standards. The third respondent, vide proceedings, dated 30.04.2012, to fill up the vacancy of Secondary Grade Teacher in the fifth respondent School, with specific condition that only TET qualified person alone should be appointed. But, the fifth respondent flouted G.O.(Ms).No.181, School Education Department, dated 15.11.2011 and the proceedings of the third respondent dated 30.04.2012 appointing the petitioner as Secondary Grade Teacher in his School on 01.06.2012, who is not qualified in TET. Hence, there is no provision to pay the salaries from the Government to the petitioner, as she is unqualified in TET.

7. In view of G.O.(Ms).No.181, School Education Department dated 15.11.2011 and the proceedings of the third respondent dated 30.04.2012, the direction issued by this Court in W.P.(MD)No.8800 of



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2014 dated 28.03.2018 may not be implemented by the respondents Hence, the prayer sought in the present Writ Petition, cannot be granted.

Accordingly, this Writ Petition is dismissed. No costs.

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Index : Yes / No

Speaking Order : Yes / No

vji

To

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(Primary Education),
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