



W.P.(MD)No.1270 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.11.2022**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1270 of 2016

and

W.M.P.(MD)Nos.2527, 1042 of 2016 & 2632 of 2020

M.Shunmugakani

... Petitioner

Vs.

1. The Director of School Education,
School Education Department,
Chennai.
2. The District Collector,
Thoothukudi District,
Thoothukudi.
3. The Chief Educational Officer,
Thoothukudi District,
Thoothukudi.
4. The Head Master,
Government Higher Secondary School,
Tharuvaikulam,
Thoothukudi.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the record relating to the impugned order passed by the third respondent in Na.Ka.No.10141/Aa2/2007, dated 09.01.2016 and quash the same and consequently, direct the respondents No.3 and 4 to disburse the monetary benefit of the petitioner which payable to her.

For Petitioner : Mr.S.Anwar Sameem

For Respondent : Mr.S.Saji Bino
Special Government Pleader

ORDER

This writ petition is filed to quash the impugned order dated 09.01.2016 and consequently, direct the respondents No. 3 and 4 to disburse the monetary benefits.

2. The petitioner was appointed as Sewing Teacher by the Chief Educational Officer, dated 12.12.2000 and was posted in the Government Higher Secondary School, Tharuvaikulam. At the time of



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appointment, the petitioner was possessing the following qualifications:

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- i. SSLC (Old SSLC - 11th) Failed.
- ii. Industrial School Leaving Certificate in Cutting and Tailoring in the year 1979.
- iii. Industrial School Leaving Certificate in Embroidery and Needle Work in the year 1980.
- iv. Teachers Certificate in Needle Works, Dress Making and Embroidery issued by the Deputy Director of Training Industrial, Madras and the Joint Director, Craftsman Training Madras in the year 1982 and reliving certificate in TTC.

3. The Audit Department has objected to the petitioner's appointment in the year 2007. Thereafter, the third respondent called upon the petitioner to submit the certificates. After verification, the third respondent passed an order in favour of the petitioner stating that the appointment is in accordance to law. After verification, audit objection was also deleted and the Headmaster was directed to comply with the order and to take necessary steps to refix the petitioner's salary, vide order, dated 04.06.2010. But no steps were taken by the fourth respondent. Hence, the petitioner has filed a writ petition in W.P.(MD) No.6218 of 2014, directing to implement the order, dated 07.12.2012 and



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the petition was allowed.

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4. The contention for the respondent is that the said order, dated 07.12.2012 was kept in abeyance by subsequent order, dated 13.02.2013. The third respondent has issued the impugned show cause notice for further explanation. The said order was passed pursuant to the order of the District Collector as well as the Director of School Education. Again, the petitioner was directed to submit explanation. The petitioner approached this Court by filing another writ petition in W.P. (MD)No.4680 of 2015 challenging the show cause notice, dated 16.09.2015. The petitioner was directed to participate in the enquiry, thereafter, the petitioner submitted her explanation. After considering the explanation, the fourth respondent, vide order, dated 30.10.2015 issued an order cancelling the petitioner's appointment order, vide order, dated 09.01.2016. Aggrieved over the same, the present writ petition has been filed. The petitioner had attained superannuation on 30.04.2016. While admitting this writ petition, this Court has granted an interim stay on the impugned order of cancelling the appointment order. Based on the



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interim order, the petitioner completed her service until her superannuation on 30.04.2016 and prayed to dismiss the writ petition.

5. The third respondent had filed counter affidavit along with the vacate stay petition and submitted that there was serious audit objection. Therefore, the petitioner's appointment order was cancelled. The petitioner was appointed based on the qualification, but the same was not equivalent qualification as prescribed under the Rule. The petitioner should have passed SSLC and should have obtained TTC Certificate. In the year 2007, there was an audit objection. Hence, after an enquiry and after granting sufficient opportunity, the petitioner's appointment was cancelled. Hence, the respondents prayed to dismiss this writ petition.

6. Heard Mr.S.Anwar Sameem, learned Counsel appearing for the petitioner, Mr.S.Saji Bino, learned Special Government Pleader appearing for the respondents and perused the records.



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7. The learned Counsel appearing for the petitioner submitted that the G.O.Ms.No.931, Labour and Employment Department, dated 31.07.1990 wherein it is stated as under:

“4. The Government after careful consideration of the reports of the Director of Employment and Training and Director of School Education, accept the suggestion of the Director of Employment and Training and direct that the Technical Teacher's Certificate issued by the Department of Employment and Training be treated as equivalent to that of the Technical Teacher's Certificate issued by the Director of Government Examinations for purpose of appointment as teachers in the Department of School Education.”

8. The petitioner is possessing “Technical Teacher’s Certificate” issued by the Department of Employment and Training and as per the aforesaid G.O. the said certificate is equivalent to the “Technical Teacher's Certificate” issued by the Director of Government Examinations. In such circumstances the objection raised by the respondents is not sustainable in law.

9. Moreover the District Collector has directed to cancel the



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appointment order, but the District Collector has no power to cancel the appointment order, since the Chief Educational Officer is the appropriate authority. The Educational Department has passed an order stating that the petitioner's qualification is equivalent to the qualification prescribed under law. In such circumstances, the objections raised by the District Collector and the Audit party is illegal. Therefore, the petitioner is bound to get the appointment order.

10. The petitioner has not received proper salary that is applicable to the post. Therefore, this Court is passing the following order:

- a. The impugned order is quashed.
- b. The respondent is directed to approve the petitioner's appointment and disburse all the terminal, service and monetary benefits that is applicable to the petitioner.
- c. The petitioner may be allowed to retire. The petitioner was appointed in the year 2000, hence she is entitled to pension.



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d. The respondents are directed to submit the pension proposals to the Accountant General and produce the papers at the earliest to pay the pension.

e. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

11. With the above said direction, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No
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To

1. The Director of School Education,
School Education Department,
Chennai.
2. The District Collector,
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3. The Chief Educational Officer,
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Government Higher Secondary School,
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S.SRIMATHY, J

jbr

Order made in
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23.11.2022