



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.04.2022

DELIVERED ON : 17.06.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.5022 of 2016

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N.Vairalingam

... Petitioner

Vs

1.The Commissioner,
Most Backward Class and Denotified
Community Welfare Department,
Kadarkarai Salai,
Chennai.

2.The Sub-Collector,
Kallar Reclamation Department,
District Collectorate Campus,
Madurai.

3.The Joint Director,
Kallar Reclamation Department,
Madurai.

4.The District Employment Officer,
Madurai District Employment Office,
K.Pudur,
Madurai.

5.The District Employment Officer,
Dindigul District Employment Officer,
Collectorate Campus,
Dindigul.

6.Jeeva

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the third respondent made in his proceedings in Na.Ka.No.H8/52662/15 dated 06.11.2015 and quash the same and consequently directing the third respondent to appoint the petitioner as Drawing Teacher in vacancy under the Schools under the control of the third respondent.

For Petitioner : Mr.R.Balakrishnan

For R-1 and R-5 : Mrs.D.Farjana Ghoushia,
Special Government Pleader.



For R-6

: No Appearance

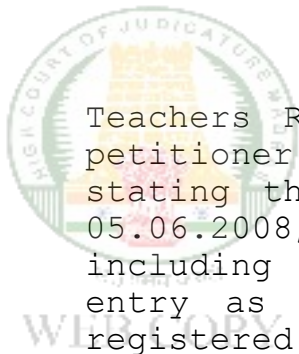
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This Writ Petition has been filed to quash the impugned order dated 06.11.2015 and consequently directing the third respondent to appoint the petitioner as Drawing Teacher in vacancy in the Schools under the control of the third respondent.

2. The brief facts of the case are that the petitioner has completed graduation in Mathematics in the year 1991. Thereafter, he has completed the Drawing Teacher Course under the Vocational Special Teacher course conducted by the Examination Department, Government of Tamil Nadu. Based on the said qualification of Drawing Teacher, the petitioner has enrolled in the Employment Exchange on 22.07.2008 and his registered number is 61871/2008. Thereafter, the petitioner has shifted his residence from Madurai to Dindigul and requested the fourth respondent to transfer his employment registration in which his seniority would be renewed periodically. As per the proceedings of the fourth respondent, the fifth respondent has registered the petitioner's name on 01.12.2008 with a new registration number 11499/2008. The petitioner belongs to Piramalai Kallar caste and he seeks appointment as a Drawing Teacher under the Government Kallar Reclamation School. In the month of October, 2010 the petitioner came to understand that on 10.09.2008, the third respondent called for list of eligible candidates enrolled with the Drawing Teacher qualification. On the basis of the said requisition, the fourth respondent sent a list of candidates, however, the petitioner's name was not there. The petitioner enquired before the third and fourth respondents and he came to understand that one Jeeva, the sixth respondent herein who is working under the third respondent School as Drawing Teacher has been appointed based on the list referred by the fourth respondent on 10.09.2008.

3. The contention of the petitioner is that the petitioner and the said Jeeva have registered before the fourth respondent as Drawing Teacher on 22.07.2008 but the petitioner's name was not sponsored by the fourth respondent. Aggrieved by the non-sponsoring of his name, the petitioner submitted representation to the respondents but the respondents dragged the petitioner from pillar to post for more than five years. Thereafter, the third respondent rejected the petitioner's claim vide proceedings dated 06.11.2015 stating that as per G.O. Ms. No. 185 School Education Department dated 17.11.2014, no preference will be given to employment seniority, since the Government of Tamil Nadu filled the Special Teachers vacancies through written examination conducted by



Teachers Recruitment Board. In the meanwhile, on 10.12.2015, the petitioner received a communication from the fourth respondent stating that as per the requisition of the third respondent, on 05.06.2008, the fourth respondent submitted a list of candidates including the name of the sixth respondent as if his registration entry as early as on 14.02.2003 but the petitioner's name was registered only on 22.07.2008. The fourth respondent did not send the petitioner's name on 05.06.2008. The contention of the petitioner is that since the petitioner as well as the sixth respondent have registered their names on 22.07.2008, but the respondents have taken the sixth respondent registration date as 14.02.2003 and has fixed the sixth respondent seniority in the year 2003. Aggrieved over, the present Writ Petition has been filed.

4. The third respondent had filed a counter stating that to fill up the vacancies to the post of Drawing Maser, suitable candidates from the live register of Madurai District Employment Exchange were sought for in the month of September, 2008 fixing the crucial date of 21.07.2006. A list containing 14 names strictly on the basis of seniority was sent from the District Employment Office at the ratio of 1:5. The said ratio is followed as per Government Order in G.O.Ms.No.18 Labour and Employment Department dated 25.02.2008. The previous G.O.Ms.No.65 Labour and Employment Department dated 30.03.2007 was not followed wherein it has prescribed the ratio as 1:1. On the basis of performance in the interview, the sixth respondent and others were selected and posting orders was issued in the year 2018 itself and for the past 12 years, the sixth respondent is serving as Drawing Master in the Department. The petitioner has submitted a representation dated 23.09.2015 seeking appointment as Drawing Teacher. The third respondent has no other option than rejecting his request that the recruitment of special teachers are with the Teacher Recruitment Board as per G.O.Ms.No.185 School Education Department dated 17.11.2014 and the earlier procedure of recruitment through employment seniority was stopped. As per the information received from the District Employment Office, the sixth respondent has registered his name in the year 2003 and the petitioner has registered his name in the year 2008. Since the cut off date for calling employment seniority is 21.07.2006, the petitioner's name was not sent by the Employment Exchange. Therefore, the respondents prayed to dismiss the Writ Petition.

5. Heard Mr.R.Balakrishnan, learned counsel for the petitioner and Mrs.D.Farjana Ghoushia, learned counsel for respondents 1 to 5 and there is no appearance on behalf of the sixth respondent and peruse the records.

6. It is seen from the records that the qualification prescribed for Junior grade Drawing Teacher is as under:

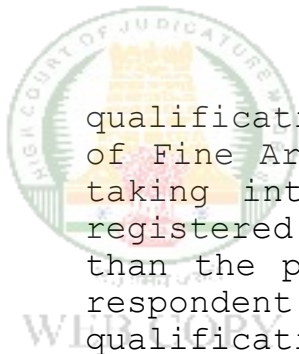


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Junior Grade Drawing Master: (1) (a) Degree with Drawing and Painting under Part III of any University In the State its equivalent (or) Diploma in Painting (or) Diploma in Drawing of the Annamalai University (or) (b) S.S.L.C. Passed And Govt. Technical Examination (Higher) Grade) in Free - hand outlines and Modal Drawing. (or) Govt. Diploma in Drawing. And (2) Technical Teacher's Certificate.

7. The qualification prescribed for recruitment is any degree or Diploma in Drawing or S.S.L.C passed and Government Technical Examination in free hand outlines and modal drawing or Government diploma in Drawing along with certificate namely Technical Teachers Certificate. The claim of the petitioner is that he has completed graduation in Mathematics and he has completed Drawing Teacher Course in the year 2008. Based on the Drawing Teacher Course, the petitioner has registered himself in the Employment Exchange in the year 2008. As far as the sixth respondent is concerned, he has completed the Bachelor of Fine Arts in April 2002. Thereafter, registered his name in the Employment Exchange on 14.02.2003. The sixth respondent has acquired Technical Teachers Certificate in the year 2008. The contention of the petitioner is that since both the petitioner and the sixth respondent have registered their name in the year 2008 after completing Technical Teacher Certificate and they are waiting for to sponsor their names by the Employment Exchange. The petitioner has submitted but he is senior in the Technical Teacher Certificate since he has registered his name prior to the sixth respondent. However, the learned counsel for the sixth respondent submitted that as per the qualification Bachelor of Fine Arts the sixth respondent should be considered and he has registered in the year 2003. The petitioner is only qualified in Bachelor of Mathematics and the same cannot be considered for recruitment. Since the sixth respondent has registered in the year 2003 itself., based on the degree of Bachelor of Fine Arts, the sixth respondent is senior than the petitioner.

8. Therefore, this Court is of the considered opinion that degree in Mathematics is not a qualification prescribed for recruitment to the post of Junior Grade Drawing Master. It is only drawing or painting or free hand outline are the required



qualification. The sixth respondent is having a degree in Bachelor of Fine Arts wherein drawing, painting is one of the subjects. By taking into consideration of the degree in Fine Arts, which was registered in the year 2003 itself, the sixth respondent is senior than the petitioner. Even though both the petitioner and the sixth respondent have Technical Teachers Certificate in the 2008, but the qualification prescribed is any degree or diploma in drawing along with Technical Teachers Certificate. Since the petitioner is not having any degree or diploma in drawing or painting etc., the petitioner is not qualified to consider for the Drawing Teacher Post. Therefore, the petitioner has not made out any case. Hence the Writ Petition is liable to be dismissed.

9. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

Nsr

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

- 1.The Commissioner,
Most Backward Class and Denotified
Community Welfare Department,
Kadarkarai Salai, Chennai.
- 2.The Sub-Collector,
Kallar Reclamation Department,
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- 3.The Joint Director,
Kallar Reclamation Department,
Madurai.
- 4.The District Employment Officer,
Madurai District Employment Office,
K.Pudur, Madurai.



5.The District Employment Officer,
Dindigul District Employment Officer,
Collectorate Campus,
Dindigul.

+1 CC to M/s.R. BALAKRISHNAN, Advocate (SR-26508[F] dated
17/06/2022)

+1 CC to M/s.SPL.GP (SR-27067[F] dated 21/06/2022)

W.P. (MD)No.5022 of 2016
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RD(04.07.2022) 6P 8C