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W.P.No.26452 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	28.11.2022
PRONOUNCED ON	:	04.01.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.26452 of 2015
and M.P.No.1 of 2015

M.Suseelamma

... Petitioner

Vs.

1.The State of Tamil Nadu rep. By
its Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009

2.The Director of Elementary Education,
College Road,
Chennai 600 006

3.The District Elementary Educational
Officer,
Krishnagiri District.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in proceedings G.O.Ms.No.158 School Education Department dated 09.10.2014 and quash the same



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insofar as it restricts the regularization of the services of the petitioner from the date of issuance of the Government Order i.e. 09.10.2014 and consequently direct the respondents to regularize the services of the petitioner in the post of Craft Instructor with effect from the date of her initial appointment with all consequential service and monetary benefits including terminal benefits.

For Petitioner : Mrs.Dakshayani Reddy

For Respondents : Mr.C.Sathish,
Government Advocate.

ORDER

Challenging the impugned order of the first respondent and to quash the same insofar as it restricts the regularization of the services of the petitioner from the date of issuance of the Government Order and for a consequential direction to the respondents to regularize the services of the petitioner in the post of Craft Instructor with effect from the date of her initial appointment with all consequential service and monetary benefits including terminal benefits, the petitioner has filed the present writ petition.



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2. The petitioner herein was appointed as Double Part Time Prevocational Instructor in Panchayat Union Middle School in Chennasandiram Hosur and Panchayat Union Middle School Nandimangalam on 23.04.1977, through the Employment Exchange. At the time of appointment, the petitioner had completed VIII standard and also one year training in Tailoring from Hindustan Aeronautics Ltd. Subsequently, in the year 2001, the petitioner completed her S.S.L.C. As per the existing Rules, the required qualification for the post of Prevocational Instructor is a 'Pass' in VIII standard with Technical Teacher Certificate (TTC).

3. The learned counsel for the petitioner would submit that the Institute of Technical Teacher's Certificate at Aduthurai, is the only Institute for obtaining Technical Teachers Certificate (T.T.C.) and the same was closed. In such circumstances, the petitioner was unable to acquire T.T.C. qualification. The learned counsel for the petitioner also pointed out that similarly placed persons like the petitioner, who do not possess T.T.C. qualification, made their representations to the first respondent and the



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first respondent, upon the recommendations made by the Educational Authorities, had issued G.O.Ms.No.1529, Education Department dated 28.09.1988, relaxing the Rules, exempting the possession of T.T.C. qualification, by considering the fact that the said candidates were over aged and had also put in long years of service.

4. Further, the learned counsel for the petitioner would submit that the 2nd respondent had sent a proposal, dated 12.04.2002 to the first respondent for the permanent absorption of the petitioner, by relaxing the relevant Rules as was done in G.O.Ms.No.1310, dated 14.08.1987 and G.O.Ms.No.1529 dated 28.09.1988. The learned counsel also stated that similar proposals were sent by the second respondent to the first respondent on 25.06.2003 requesting to relax Rule 6(b) (i) Class 6 of Tamilnadu Elementary Education Subordinate Service Rules. It is also submitted that on 12.02.2007, another proposal was sent with additional particulars, wherein the second respondent had recommended to treat the post of the petitioner as a 'full time post'. It is the case of the petitioner that even after receiving all the proposals with all clarifications, the first



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respondent has not passed any orders on the proposals which were sent on 12.04.2002, 25.06.2003, 12.02.2007 and 20.02.2009.

5. Since no orders passed on the proposals, the petitioner filed W.P.No.20181 of 2009 and this Court, vide order, dated 15.12.2009 passed the following order:-

“ Considering the limited scope of the matter and without expressing any opinion about the claim of the petitioner, I direct the petitioner to submit a representation to the first respondent with a request for regularization of her services, within a period of two weeks from the date of receipt of this order and on receipt of the same, the first respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law, within a period of twelve weeks thereafter.”

The petitioner also preferred a detailed representation on 29.01.2010 to the Government to consider her request. The petitioner thereafter filed W.P.No.13600 of 2013, seeking to relax the T.T.C. qualification and to regularise her services in time scale of pay as it was done in the case of



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similarly placed persons.

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6. Against the order made in W.P.No.13600 of 2013, the respondents filed an Appeal before this Court in W.A.No.2476 of 2013. The said Writ Appeal came to be dismissed by this Court vide judgment dated 01.08.2014 with a direction to comply the order of the learned Single Judge made in W.P.No.13600 of 2013, dated 03.06.2013 within a period of six weeks. Thereafter, the first respondent issued G.O.Ms.No.158 dated 09.10.2014 accepting the proposals of the second respondent and appointed the petitioner as 'Craft Instructor'. Thereafter, by an order dated 14.11.2014 in Na.Ka.No.2475/A6/2014 passed by the third respondent, the services of the petitioner was regularised with effect from 09.10.2014.

7. The learned counsel for the petitioner submitted that a representation dated 13.03.2015 requesting the respondents to regularise the petitioner's service from the date of her initial appointment was made but the respondents have not considered the same. Hence, the present writ petition.



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8. Per contra, Mr.C.Sathish, learned Government Advocate, appearing on behalf of the respondents would state that the writ petitioner herein was not in possession of the important technical educational qualifications required for appointment as full time Prevocational Instructor i.e (i) Diploma in Costume Designing and dress-making issued by the State Board of Technical Education or (ii) Higher Grade in Needle Work and Higher Grade in Embroidery Course conducted by the Director of Government Examinations, Chennai and (iii) Teachers Training Certificate 3 months training course conducted by the Director of Government Examinations, Chennai. He further submits that the qualification possessed by the petitioner is not considered as equal and valid for appointment as Full Time Prevocational Instructor as the certificate is not evaluated by the Tamilnadu Government on par with the Technical Educational Qualification prescribed.

9. The learned Government Advocate further submits that since the writ petitioner is not holding the essential and required Technical



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Educational qualifications, she was not regularized. Even though the petitioner put in 36 years of service, she did not possess the required Technical Educational Qualifications and therefore, she cannot be absorbed into regular time scale of pay as per Tamil Nadu Elementary Educational Subordinate Service Rules 1988.

10. Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondents and perused the materials placed before this Court.

11. Admittedly, the date of appointment of the petitioner is not disputed and her appointment through Employment Exchange is also not disputed and there is no violation of any rules in such appointment. In *V. Perumal vs. the Commissioner and Secretary* reported in (2006) 2 MLJ 339, this Court has held as follows:-

“.....The relaxation is granted by the Government for the purpose of regularisation of petitioner's service. The regularisation of service cannot be made after 20 years of the petitioner's service. If the impugned



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Government Order is applied strictly, the petitioner's valuable service of 20 years will get obliterated and the petitioner will not be in a position to get annual increments and other benefits.”

12. In that view of the matter, this Court is of the opinion that though the service of the petitioner was not regularized initially, her appointment is not illegal. The writ petitioner has worked for more than 10 years in the sanctioned post. Therefore, her service ought to have been regularized as per the legal principle laid down in the case of ***State of Karnataka Vs. Umadevi*** reported in (2006) 4 SCC 1. Denial of regularization to the writ petitioner who had worked for more than 10 years of service and who approached this court for regularization even at the earliest point of time would amount to deprivation to her life which is a Fundamental Right enshrined in Article 21 of the Constitution. As far as the irregular appointments, there is no bar for granting regularization. The length of service is to be taken into account for the purpose of granting regularization.



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13. In the light of the above reasonings, this Writ Petition is allowed.

The respondents are directed to regularize the services of the petitioner in the post of Craft Instructor with effect from the date of her initial appointment with all consequential service and monetary benefits including terminal benefits within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition stands closed.

04.01.2023

sts/nvsri

To:

- 1.The Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009
- 2.The Director of Elementary Education,
College Road,
Chennai 600 006
- 3.The District Elementary Educational
Officer, Krishnagiri District.



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J.NISHA BANU, J.,

sts/nvsri

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Dated:
04.01.2023