



WEB COPY



W.A.No.3456 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

W.A.No.3456 of 2019
and
C.M.P.No.22142 of 2019

S.Anandhan

Vs.

... Appellant

- 1.The Government of Tamil Nadu,
Rep. By the Director for Rehabilitation
of the Disabled,
Chepauk, Chennai – 5,
Tamil Nadu.
- 2.The Principal Secretary/
State Commissioner for the Disabled,
15/1 Model School Road,
Thousand Lights,
Chennai 600 006,
Tamil Nadu.
- 3.The C.S.I. Balar Gnana Illam,
Special Education School and Vocational
Rehabilitation Centre for Mentally Challenged,
Rep. By the Bishop,
Hobart Campus, Hasthampatty,
Salem - 636 – 7,
Tamil Nadu.



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4. The District Rehabilitation Officer,
Office of the District
Rehabilitation of Handicapped,
Salem, Tamil Nadu.

5.S.Yoburaj

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, against the order dated 02.11.2018 in W.P.No.10781 of 2009 passed by this Court.

For Appellant : Mr.K.Sukumaran
for Mr.C.Veeraraghavan

For R1, R2 and R4 : Mr.K.V.Sajeev Kumar
Special Government Pleader

For R3 & R5 : No appearance

JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

This writ appeal has been directed against the order passed by the Writ Court dated 02.11.2018 made in W.P.No.10781 of 2009.

2. The appellant was the writ petitioner who was appointed as a Special Educator in 3rd respondent School in the sanctioned Secondary Grade Teacher post by order dated 04.06.2008.



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3. The said appointment having been forwarded by the 3rd respondent to the 2nd respondent for approval, the 2nd respondent having considered the qualification and credentials of the appellant, had refused to approve such appointment by rejecting the said plea by order dated 24.02.2009. Challenging the said order, the appellant filed the aforesaid writ petition which was also considered and dismissed by the learned Judge of the Writ Court by the order impugned.

4. In the order of rejection dated 24.02.2009, the 2nd respondent has stated the reason for such rejection to the effect that the qualification to hold the post of Trained Teacher in the Special Schools i.e. Schools for Mentally Retarded, if it is a High School certain qualifications have been prescribed and it is a Primary and Middle School some other qualifications have been prescribed.

5. The 3rd respondent School is the Primary and Middle School, where the appellant since has been appointed, he must hold the qualification of having Trained Teachers Certificate of Secondary Grade and also Junior Diploma in Teaching the mentally retarded.



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6. It is the case of the appellant that, the appellant is holding the qualification of Junior Diploma in Teaching the mentally retarded as per the certificate issued by the Central Authority concerned, apart from that, he is having the qualification of B.A. and B.Ed. Degree. Therefore, according to the learned counsel appearing for the appellant, the appellant is having the higher qualification than what has been required or prescribed. Therefore merely the appellant did not have the qualification of Trained Teachers Certificate of Secondary Grade, her appointment cannot be rejected and it ought to have been approved.

7. In this context, the learned counsel appearing for the appellant has relied upon the Proceedings issued by the 2nd respondent dated 17.01.2008, where, reference has been made to G.O.Ms.No.213, Social Welfare and Nutritious (N.9) Food Department dated 14.11.2007 and in the said Proceeding dated 17.01.2008, certain qualifications have been mentioned for the purpose of the Teachers to be appointed in Special Schools like the 3rd respondent. Therefore, as per the said prescription, since the appellant is having such a qualification her appointment shall be approved.



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8. However, the learned Special Government Pleader appearing for the respondents 1, 2 and 4 had stated that the copy of the proceedings issued by the 2nd respondent is for a different purpose and the G.O.Ms.No.213 is also for a different purpose, therefore that cannot be relied upon by the appellant side. In order to clear the said doubt, we, by order dated 03.07.2023, directed the respondents to produce the copy of the G.O.Ms.No.213 dated 14.11.2007, accordingly the copy of the said G.O. also has been produced by the learned Special Government Pleader.

9. On perusal, we find that the G.O.Ms.No.213 relates to fixation of pay on adhoc basis for those teachers who have been working in the Special Schools till the final fixation is made as a contingency arrangement.

10. Except with regard to the fixation of the pay on temporary basis, nothing has been stated in the G.O.Ms.No.213.

11. Therefore, the mere reference that has been made by the 2nd respondent in his Proceedings dated 17.01.2008 would not anyway advance



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the case of the appellant to claim that even with the present qualification what is holding by the appellant, her appointment can be considered and approved cannot be accepted.

12. In this context, the actual qualification which is a minimum required qualification for the Secondary Grade Teachers appointed in the Special Schools especially the 3rd respondent School which is one of the Primary and Middle School for Mentally Retarded such a qualification has been prescribed in Annexure V Clause II of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 in short “the Rules”.

13. In the said Table of qualifications under the heading “Qualifications for Appointment as Teachers in the Private Special Schools for the (1) Deaf and Dumb, (2) Blind, (3) Mentally Retarded”, each such School against which qualifications have been prescribed in Serial No.9 of the Table. The Teachers in the Special School for the mentally retarded (Primary and Middle School Standard) has been prescribed, where, the first qualification is Trained Teachers Certificate of Secondary Grade and the second qualification is Junior Diploma in teaching the mentally retarded.



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14. These are all the two essential qualification which must have one to get an appointment as a Secondary Grade Teacher in Special Schools for mentally retarded. These two qualifications since have been prescribed under the Statute that has been quoted by the 2nd respondent in the order impugned before the Writ Court dated 24.02.2009 stating that, among the two qualification the appellant/writ petitioner is having only the second one that is the Junior Diploma in teaching the mentally retarded but admittedly he does not have the qualification of Trained Teacher Certificate of Secondary Grade.

15. This has been considered by the learned Judge who also found that, since the writ petitioner/appellant does not have one of the basic qualification to hold the post, the order impugned before the Writ Court dated 24.02.2009 passed by the 2nd respondent is to be sustained, accordingly the writ petition was dismissed by the learned Judge.

16. We do not find any error in the said order of the learned Single Judge as the basic minimum qualification prescribed under the Statute since has not been fulfilled by the appellant/petitioner, he is not entitled to seek



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for approval of his appointment at the 3rd respondent School and therefore we feel that no interference is called for in the order impugned of the Writ Court and hence this appeal fails, accordingly it is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

(R.S.K., J.) (K.B., J.)

06.07.2023

Index : Yes/No

Speaking Order : Yes/No

Sgl

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