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W.P.No.17288 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.17288 of 2020

and

W.M.P.Nos.21380 of 2020 & 25707 of 2021

Dr.Hussaina Banu
D/o.G.M.Asadhullah
No.335/B, T.T.K.Road
Dewan Sahib Garden
Royapet, Chennai 600 014

... Petitioner

/Vs/

1.The Regional Joint Director
Chennai Region
Directorate of Collegiate Education
Saidapet, Chennai 15

2.The Secretary and the Correspondent
Quaide Milleth College for Men
Medavakkam,
Chennai 100

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order of the 2nd Respondent made in A/Apt/2014/HB/2587 dated 09.03.2020, to quash the same and to consequently direct the Respondents to forthwith reinstate the Petitioner in services with all service and monetary benefits arising thereto.



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For Petitioner : Mr.V.J.Arulraj

For Respondents : Mr.J.Arunkumar (for R1)
Additional Government Pleader

Mr.N.A.Nissar Ahmed (for R2)
Senior counsel
for Mr.I.Kowser Nissar

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order of the 2nd Respondent made in A/Apt/2014/HB/2587 dated 09.03.2020, to quash the same and to consequently direct the Respondents to forthwith reinstate the Petitioner in services with all service and monetary benefits arising thereto.

2.Heard Mr.V.J.Arulraj, learned counsel for the Petitioner, Mr.J.Arunkumar, learned Additional Government Pleader for the first Respondent and Mr.N.A.Nissar Ahmed, learned Senior counsel for Mr.I.Kowser Nissar, learned counsel for the second Respondent.



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3.Mr.V.J.Arulraj, learned counsel for the Petitioner submitted that the Petitioner got appointed as Assistant Professor on 01.07.2014 in the Department of Economics at the second Respondent college. While her appointment was sent for approval of the Government, the Government issued a conditional approval by stating that the Petitioner ought to have qualified herself in Tamil within a period of two years from the date of her appointment. In compliance of the said condition, the Petitioner tried to qualify herself in Tamil and she appeared for the successive Tamil qualifying Examination conducted by TNPSC. However, she could qualify only during May 2016 examination. The Petitioner wrote her written examination on 24.05.2016 and she attended viva vice on 02.09.2016 and result was published on 28.09.2016. Since the condition stipulates that the Petitioner ought to have qualified in Tamil Examination before 30.06.2015 (within two years from the date of her appointment), the second respondent college terminated her.

4.Mr.N.A.Nissar Ahmed, learned Senior counsel for the second Respondent submitted that the Petitioner had qualified only on 28.09.2016, which is beyond the outer date of 30.06.2016.



5.However, Mr.V.J.Arulraj, learned counsel for the Petitioner submitted that whenever the Government examinations are required to be passed for securing an appointment, the fulfilment of the said qualification should be deemed to have approved on the date following the last date of examination or days, in which the candidate passed the examination. In support of the above contention he relied on the order of the Division Bench of this Court made in

1.The Director of Elementary Education and another Vs. K.Nedumaran (W.A.No.803 of 2013) dated 27.02.2015. In the said case it is held as under:

8.But the above argument, as rightly pointed out by the learned Judge is contrary to the Ruling [2] under Fundamental Rule 26(a), which reads as follows:

"(2) In cases where the passing of an examination or test confers on a Government servant the title to any right, benefit or concession, such title should be deemed to have accrued on the day following the last day of the examination or test which he passed. In cases where the examination or test can be passed in instalments, the title to the right, benefit or concession will be deemed to have accrued on the day following the last day of the examination in the subject or subjects in which he has passed. [G.O.No.1446, Public (Services), dated 1st May 1934.]"



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6.In the case in hand, the Petitioner appeared for written examination during May 2016 and her results were published during September 2016. It is claimed by the Petitioner that the date of fulfilment of the passing of the examination will relate back to May 2016.

7.Mr.N.A.Nissar Ahmed, learned Senior counsel for the second Respondent submitted that even though the written examination was attended by the candidate during May 2016, her viva vice was conducted only during September 2016, which falls beyond the outer limit of 30.06.2016.

8.In the letter of the Government dated 02.01.2018 sent to the second Respondent, it is accepted by the Government that the Petitioner has passed her Tamil Examination during May 2016. It is the Government which imposed the condition of passing the qualification examination in Tamil and not the second Respondent. So the certificate of satisfactory completion should be obtained only from the desk of the Government and not from the second Respondent. When the Government itself appreciate the pass in the exam with effect from May 2016, the second Respondent cannot give a different interpretation. As it has been indicated in the first Respondent's letter dated 02.01.2018 that the Petitioner got herself qualified in Tamil exam during May 2016, it should be



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only be construed as securing the qualification before the outer limit of

30.06.2016.

9.In fact, the Government is aware of the time line in which the examinations are conducted. Since the date in which or time in which the results are published can not be within the domain of individual who appear for examination, it is considered by the Government that the qualifying date should be from the date of attending the last examination and not from the date when the results were published.

10.In the instant case, the Petitioner accepted to be qualified in the year May 2016 itself and she had acquired the special qualification in Tamil as stipulated by the Government in its letter dated 02.01.2018. In the said circumstances, the second Respondent ought not to have terminated the Petitioner by stating reasons extraneous to the scope of her qualification in Tamil.

In view of the above stated reasons this Writ Petition is allowed and the order of the 2nd Respondent made in A/Apt/2014/HB/2587 dated 09.03.2020, is hereby quashed and the Respondents are directed to reinstate the Petitioner in



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services with all monetary benefits and service benefits with effect from the date of her initial appointment and issue order to that effect within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

30.11.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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R.N.MANJULA, J.

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