



Rev.Aplw(MD)No.60 of 2011

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2023

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

Rev.Aplw(MD)No.60 of 2011

in

W.P(MD)No.12261 of 2008

- 1.The Chief Educational Officer,
Office of the Chief Educational Officer,
Palani Road, Dindigul.
- 2.The District Educational Officer,
Office of the District Educational Officer,
Karur Road, Dindigul District.
- 3.The District Adi Dravidar and Tribal
Welfare Officer,
District Collectorate Building,
Dindigul.
- 4.The District Employment Officer,
The District Employment Office,
Nagal Nagar, Dindigul. ... Petitioners/Respondents

Vs.

O.Vellaichamy ... Respondent/ Petitioner

PRAYER : Review Petition filed under Order 47 Rule 1 Section 114 of Code of Civil Procedure, to review the order dated 23.01.2009 in W.P(MD)No.12261 of 2008 and M.P(MD)No.1 of 2008.



WEB COPY



Rev.Aplw(MD)No.60 of 2011

For Petitioners : Mr.D.Sadiq Raja
Additional Government Pleader

For Respondent : Mr.A.Hajamohideen

ORDER

The present review application has been filed against the order, dated 23.01.2009 passed in W.P(MD)No.12261 of 2008.

2. The brief facts as stated in this review application is that the respondent, namely Vellaichamy is a qualified Post Graduate M.A. (History and Tamil) and also completed M.Ed. He has registered his name in the year 1994 after his graduation. Since he did not get any employment, initially he had filed O.A.No.2203 of 2003 before the Tamil Nadu Administrative Tribunal, Chennai to consider his case for employment in the light of G.O.Ms.No.113, dated 14.03.1997 and grant employment. The Administrative Tribunal vide order, dated 02.07.2003 directed the authorities to consider his case. Since the petitioner did not get any call letter, the petitioner again filed W.P.No.7130 of 2005 to direct the respondents to appoint the petitioner as per G.O.Ms.No.113,



Rev.Aplw(MD)No.60 of 2011

dated 14.03.1997 and G.O.Ms.No.301, dated 15.10.1997. This Court vide order, dated 08.12.2006 has held as under:

“3. In view of the change of the policy of the Government, the petitioner is get appointment based on his employment seniority. The third respondent is directed to sponsor the name of the petitioner as and when the petitioner's turn comes for appointment if his name is in the live register of the Employment Exchange. In case of non-availability of Second Grade Teacher, he may be appointed in any vacancy of Secondary Grade Teacher or B.Ed. Grade Teacher as and when the vacancy arises.”

This Court had directed the authorities to consider the petitioner's case as and when the petitioner's turn arises in the live register. Again the respondent has not issued any call letter for the post of Secondary Grade Teacher, but the employment exchange has issued a call letter for the post of Cook.

3. Aggrieved over the same, the petitioner has filed W.P.No.12261 of 2009. This Court vide order, dated 23.01.2009 has held as under:

“5. Hence, I am not inclined to grant the relief that has been sought for by the petitioner for quashing the call letter issued to the petitioner. In view of the orders made in W.P(MD)No.7130 of 2005, dated 08.12.2006 and also in view of the undertaking that has been given by the respondent through the learned Additional Government Pleader that as and when vacancy arises, the case of the petitioner would be considered, I am inclined to direct the respondents 2 and 3 to provide employment to the



Rev.Aplw(MD)No.60 of 2011

petitioner as Second Grade Teacher or B.Ed. Grade Teacher as directed in W.P(MD)No.7130 of 2005 dated 08.12.2006. The writ petition is disposed of. No costs. Consequently, connected M.P. is closed.”

This Court after accepting the Government Advocate’s submission that the petitioner’s case would be considered as and when vacancy arises for the secondary grade post, has passed a positive direction directing the respondents to provide employment to the petitioner in Secondary Grade Teacher or BT Assistant. Even though there is a positive direction, the official respondents have not complied with the same. The writ petitioner has preferred contempt petition, but the contempt petition was closed stating the respondents were directed to consider the case of the petitioner as and when vacancy arises.

4. In the meanwhile, the respondents have preferred this review application in the year 2011. The writ petitioner / respondent had submitted applications under Right to Information Act and has obtained reply regarding the vacancy and the appointment of Secondary Grade Teachers. In the reply, it has been stated certain teachers were appointed in the year 2008, but the writ petitioner’s name was not considered at all. Aggrieved over the same, the petitioner filed a contempt petition. But the



contempt petition was also closed.

WEB COPY

5. This Court raised a specific question to the writ petitioner after receiving the call letter for the post of Cook, whether the writ petitioner approached the District Employment Exchange Office not to struck down his name from the live register to the post of Secondary Grade Teachers? But the writ petitioner has not submitted any reply for the said question till now. Subsequently, it is seen that the writ petitioner due to family circumstances has accepted the Cook post and he was serving in the Cook post from the year 2013 onwards until today.

6. It is also seen the petitioner was born in the year 1964, which means the writ petitioner is on the verge of retirement. Under these circumstances, the prayer in the writ petition cannot be considered based the age of the petitioner. In the meanwhile, the Teachers Recruitment Board was appointed as a Nodal Officer for the appointment of Secondary Grade Teachers in the year 2008 and the method of recruitment itself has changed. This fact was not brought to the notice of this Court, when W.P.(MD)No.12261 of 2008 was heard by this Court. Moreover, the petitioner has not ensured his name to be in the live register. If the petitioner has taken steps to ensure that his name is in the



Rev.Aplw(MD)No.60 of 2011

live register for the said Secondary Grade Post, the petitioner's name would have been sponsored by the Employment Exchange Office. The petitioner had ample opportunity to participate in the recruitment process held by the Teachers Nadu Recruitment Board. Therefore, the petitioner cannot claim any positive direction to grant Secondary Grade Post. This Court can only sympathize with the petitioner for the unfortunate happenings.

7. It is seen that the respondents have not followed the dictum laid down by the Hon'ble Supreme Court reported in **1996 (6) SCC 216 (Excise Superintendent Malkapatanam Vs K.B.N. Visweshwar Rao & others)**, while recruiting the teachers. In the said judgment it has been specifically held that the employer shall call for candidates list from the Employment Exchange, also issue paper publication and affix notice in the prominent place so that the eligible candidates would apply. Thereafter the meritorious candidates could be selected. If paper publication was issued, the writ petitioner would have applied by seeing the paper publication and the valuable right of the writ petitioner would have been protected. Therefore, this Court imposes cost of Rs.5,000/- (Rupees Five Thousand only) on the review petitioners and the same



Rev.Aplw(MD)No.60 of 2011

shall be paid to the writ petitioner within a period of four (4) weeks from the date of receipt of the order copy.

8. In view of the above said directions, this Review Application stands allowed.

27.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

gbg



WEB COPY



Rev.Aplw(MD)No.60 of 2011

S.SRIMATHY ,J.

gbg

Order made in
Rev.Aplw(MD)No.60 of 2011



WEB COPY



Rev.Aplw(MD)No.60 of 2011

Dated:
27.01.2023