



W.P.(MD)No.9597 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.9597 of 2020

and

W.M.P.(MD)Nos.8645 and 8646 of 2020

M.Muthuramalingam

... Petitioner

Vs.

1. The Deputy Collector,
Tuticorin District,
Tuticorin.

2. The Revenue Divisional Officer,
Tiruchendur,
Tuticorin District.

3. The Thasildar,
Tiruchendur,
Tuticorin District.

4. The Secretary / Correspondent,
Sri Ramakrishna Higher Secondary School,
Udangudi,
Tuticorin District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India



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praying for issuance of Writ of Certiorari, calling for the records relating to the impugned order of the second respondent in Moo.Mu.(A4)/4356/2019, dated 10.09.2019 and the impugned order of the first respondent in Na.Ka.E1/28533/2019 dated 05.03.2020 and quash the same.

For Petitioner : Mr.P.P.Alwin Balan

For Respondents : Mr.G.V.Vairam Santhosh
Addl. Govt. Pleader for R1 to R3
Mr.R.Janaki for R4

ORDER

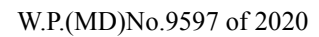
The impugned order passed by the second respondent vide proceedings in Moo.Mu.(A4)/4356/2019, dated 10.09.2019 and the impugned order of the first respondent in Na.Ka.E1/28533/2019, dated 05.03.2020, are under challenge in the present Writ Petition.

2. The case of the petitioner is that the petitioner's father died in the year 1993 and his mother Late.Subbulakshmi, who worked as a Secondary Grade Teacher in the fourth respondent School died on 22.08.2010 while she was in service, leaving behind the petitioner and his



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younger sister as her legal heirs. The petitioner has completed M.Com., and B.Ed., and he was eligible to be appointed as a Teacher and hence, he submitted an application to the fourth respondent for appointment under compassionate ground and the same was not considered. Hence, the petitioner has filed a Writ Petition before this Court in W.P.(MD)No.10611 of 2013. When the said Writ Petition was pending, the fourth respondent informed that he would be appointed in the regular vacancy, which will arise only after 31.05.2018 by superannuation of the existing teacher and he was appointed as Post Graduate Assistant (Commerce) on 18.06.2014 under the Self Finance scheme. However, when the vacancy in the post of B.T.Assistant arose, the Educational Authority did not grant permission to appoint him, citing the pendency of the Writ Petition and hence, the said Writ Petition was withdrawn by the petitioner on 01.04.2016. In the meantime, the vacancy in the post of Post Graduate Teacher arose due to the superannuation of the then Post Graduate Assistant (Commerce) on 31.05.2018 and the fourth respondent appointed him as Post Graduate Assistant (Commerce) on 01.06.2018 and also forwarded the proposal for approval of his appointment. But the said proposal was kept pending citing



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3. The learned counsel appearing for the petitioner would submit that admittedly the petitioner has made a representation for issuance of consolidated certificate enabling him to appoint on compassionate ground and thereby, the third respondent / Tahsildar has issued a consolidated certificate on 11.05.2018 which clearly stated with regard to the total income of his family of Rs.48,000/-. Though the petitioner was appointed as Post Graduate Assistant (Commerce) on 18.06.2014 in the Self Finance Scheme, however, on the said date, the wife of the petitioner was not in employment as she got employment only on 23.10.2014 in the Government School. Hence, the income of the petitioner's wife cannot be considered at the time of issuance of consolidated certificate. Therefore, the impugned orders passed by the second respondent is liable to be interfered with and the consolidated certificate issued by the third respondent is not liable to be interfered with. Accordingly, he prayed for appropriate orders.

4. The learned Additional Government Pleader appearing for the respondents would submit that the petitioner has obtained a consolidated



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certificate for compassionate appointment after the death of his mother and he was appointed in the fourth respondent School in Self Finance Scheme on 18.06.2014. Thereafter, once again, he was appointed on 01.06.2018 in the vacancy arose due to superannuation of one Deivasudamani. Based on the appeal of one Amutha to cancel the consolidated certificate of the petitioner, the second respondent conducted a detailed enquiry, examining the letter of the Tahsildar dated 04.07.2019 and enquired the petitioner on 26.07.2019 and the said Amutha on 16.08.2019. It is pertinent to note that, while enquiring the petitioner, he has stated that his wife is working as a Teacher in the Government School and only to get compassionate appointment, he got the consolidated certificate. While enquiring the said Amutha, she stated that the petitioner has concealed that his wife is receiving Government salary and stated fraudulently that his family suffers from poverty by showing his annual income as Rs.48,000/- only and received the consolidated certificate. Further, the second respondent, after conducting detailed enquiry and opportunity of hearing is being given to the petitioner and considering the report of the Thasildar, the confessions made by the petitioner and the said Amutha, cancelled the consolidated certificate.



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Accordingly, he prayed for dismissal of the Writ Petition.

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5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. The facts in the present case are not in dispute. The issue that arises in the present Writ Petition is whether the consolidated certificate issued in the year 2018 is taken up for consideration or not. Admittedly, the petitioner's mother passed away on 22.08.2010 and subsequently, the petitioner got married on 09.02.2014. It is also an undisputed fact that the petitioner's wife got appointment in the Education Department on 23.10.2014. The petitioner has obtained consolidated certificate on 11.05.2018 for appointment on compassionate ground, pursuant to which, the petitioner was given appointment on compassionate ground in the regular vacancy on 01.06.2018. Admittedly, the petitioner was earlier employed in the Self Finance Scheme in the fourth respondent School and subsequently, he was appointed in the regular vacancy based on the consolidated certificate issued by the third respondent. The consolidated



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certificate was issued only on 11.05.2018, at that time, the petitioner is working in Self Financing Scheme and his wife is working in the Government School, but his wife's employment was not considered as the column provided therefore says that the petitioner and his sister are married. However, the third respondent / Tahsildar, without disclosing the earnings of the petitioner as well as his wife issued the consolidated certificate as if the petitioner's family income was Rs.48,000/-. Hence, since the consolidated certificate issued without disclosing the entire family income, the impugned order passed by second respondent, cancelling the certificate is perfectly in order and this Court finds no reason to interfere with the same.

7. For the foregoing reasons, this Writ Petition is dismissed with the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji



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