



W.P.(MD).No.17330 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.17330 of 2020

R.Ponnusamy

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by the Secretary to Government,
Education Department,
Fort St.George,
Chennai-600 009.

2.The Director of Public Libraries,
No.737/1, Anna Salai,
Chennai-600 002.

3.The District Library Officer,
District Library Office,
Virudhunagar,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.4748/A2/2019, dated 15.10.2019 passed by the 2nd respondent and quash the same as illegal and consequently, direct the 2nd respondent to appoint the petitioner in the post of Grade III Librarian by way of recruitment by transfer from the post of Village



W.P.(MD).No.17330 of 2020

Librarian with effect from 01.10.2013 along with all monetary benefits and arrears of pay by extending the benefits of G.O.(Ms) No.101, School Education (Po.Nu.1) Department, dated 12.05.2015 within a time frame that may be stipulated by this Court.

For Petitioner : Mr.B.S.Meltiue

For Respondents : Mr.D.S.Nedunchezian
Government Advocate

ORDER

The present writ petition has been filed to call for the records pertaining to the impugned order in Na.Ka.No.4748/A2/2019, dated 15.10.2019 passed by the 2nd respondent and quash the same as illegal and consequently, direct the 2nd respondent to appoint the petitioner in the post of Grade III Librarian by way of recruitment by transfer from the post of Village Librarian with effect from 01.10.2013 along with all monetary benefits and arrears of pay by extending the benefits of G.O.(Ms) No.101, School Education (Po.Nu.1) Department, dated 12.05.2015 within a time frame that may be stipulated by this Court.



W.P.(MD).No.17330 of 2020

2. The learned counsel for the petitioner would submit that educational qualification of the petitioner is C.Li.Sc, B.A, B.Li.Sc and M.Li.Sc. He was working as a Village Librarian at Devarkulam, Virudhunagar District. From the date of initial appointment on 24.09.2008 as Village Librarian to till date, he is serving in the said post without any blemish. Further, he would submit that the respondents invited applications from eligible candidates for the appointment to the post of Village Librarian on temporary basis. The District Employment Exchange Office, Virudhunagar sponsored a list of candidates including the petitioner to the respondents. The 3rd respondent addressed the petitioner a call letter to participate in the interview with all educational and other certificates. The petitioner participated in the interview and the 3rd respondent selected and appointed the petitioner as Village Librarian on temporary basis against the regular sanctioned vacant post, dated 24.09.2008.

3. The 3rd respondent appointed the petitioner in terms of the selection process as per the rules of the Government. The petitioner was working as a full time Village Librarian and he received Rs.1,500/- as consolidated pay and now, the petitioner is receiving Rs.9,552/- as special time scale every month from the Government treasury and the respondents deduct Rs.60/- towards family benefit



W.P.(MD).No.17330 of 2020

fund and Rs.180/- towards New Health Insurance Scheme like regular Librarians working in the Library Department. The petitioner is also paying personal tax to the Government every year. He is a member of contributory pension scheme and his subscription number is 7155225.

4. The respondents have to regularize his service of Village Librarian after completion of 5 years with upgradation as Librarian Grade III from the date of initial appointment in the light of G.O.(ID)No.2, School Education (K2) Department, dated 05.02.1997. The services of 160 Village Librarians were regularized with upgradation of Librarian Grade-III vide G.O(Ms)No.101, School Education (Po.Nu.1) Department, dated 12.05.2015.

5. The petitioner has been working as a Village Librarian on temporary basis more than 10 years continuously without any break since his appointment. Though the petitioner was employed like other Village Librarians who were appointed in the year 2008 and whose services were regularized with upgradation as Librarian Grade III in the year 2015, the respondents have not regularized the service of the petitioner. Despite the perennial nature of work



W.P.(MD).No.17330 of 2020

which the petitioner has been serving and despite he made a representation, dated 13.11.2017 requesting them to regularize the service with upgradation as Librarian Grade III, the same is of no avail. Hence, the petitioner filed W.P(MD)No.4519 of 2018 seeking to direct the respondents to dispose of his representation, dated 25.04.2019. However, the 2nd respondent passed the impugned order in Na.Ka.No.4748/A2/2019, dated 15.10.2019 rejecting his claim for upgradation as Grade III Librarian with all service and monetary benefits. Hence, this writ petition came to be filed. The learned counsel for the petitioner would submit that the petitioner is entitled to be upgraded a Grade III Librarian and the writ petition has to be allowed.

6. Per contra, the learned Additional Government Pleader would submit that this writ petition is squarely covered by the orders passed by this Court in ***W.P(MD)No.17345 of 2020 (Malarkodi Vs. The State of Tamil Nadu, Reprinted by the Secretary to Government, Education Department & Others)***. The relevant portion of the order is extracted as follows:

“9.Admittedly, challenging the impugned order dated 15.10.2019, the petitioner has preferred an appeal dated 29.11.2019 before the 1st respondent, which was sent through RPAD to the 1st respondent. However, without obtaining any orders from the 1st respondent, the petitioner has approached this Court by way of filing



W.P.(MD).No.17330 of 2020

this writ petition, which does not warrant any interference of this Court.

10. In the light of the above, this Court is inclined to pass the following directions:-

- i) the petitioner is directed to send the hard copies of the appeal dated 29.11.2019 along with the typed set of papers, if any, before the 1st respondent, within a period of three weeks from the date of receipt of a copy of this order; and*
- ii) on receipt of such appeal papers, if any, the 1st respondent is directed to consider the petitioner's appeal dated 29.11.2019 and pass appropriate orders on merits and in accordance with law, within a period of twelve weeks therefrom; ”*

He would further submit that this petition may also be disposed of in the said terms.

7. In view of the order cited supra, this Court is inclined to pass the following directions:

- (i) The petitioner is directed to make a fresh representation along with required documents, if any, before the 1st respondent within a period of 3 weeks from the date of receipt of a copy of this order.



W.P.(MD).No.17330 of 2020

(ii) On receipt of such representation, the 1st respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law within a period of twelve (12) weeks from the date of receipt of the representation.

8. With the above said terms, this Writ Petition is disposed of. No costs.

03.07.2023

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

gbg

To

- 1.The Secretary to Government,
The State of Tamil Nadu,
Education Department,
Fort St.George,
Chennai-600 009.
- 2.The Director of Public Libraries,
No.737/1, Anna Salai,
Chennai-600 002.
- 3.The District Library Officer,
District Library Office,
Virudhunagar,
Virudhunagar District.



WEB COPY



W.P.(MD).No.17330 of 2020

L.VICTORIA GOWRI, J.

gbg

W.P.(MD).No.17330 of 2020

03.07.2023