



W.P.(MD) No.2793 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON : 04.09.2023

ORDERS PRONOUNCED ON : 26.09.2023

CORAM

THE HON'BLE MR.JUSTICE BATTU DEVANAND

W.P.(MD) No.2793 of 2016

and

W.M.P.(MD) No.2480 of 2016

K.Gajendran

... Petitioner

Vs.

1.The Government of Tamilnadu,
Rep., by its Secretary to Government,
Education Department, Fort St. George,
Chennai-9.

2.The Director of Elementary Education,
College Road,
Chennai-600 006.

3.The Chief Educational Officer,
Karur, Karur District.

4.The District Elementary Educational Officer,
Karur, Karur District.

... Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in and by his proceeding G.O.(3D) No.35, School Education (Ne.Va 3(1)) Department, dated 10.04.2014 and quash the same, and consequently direct the respondents to regularize the petitioner's service as Secondary Grade Teacher with effect from 03.01.2002 the date on which the petitioner secured the right of appointment to the post of Secondary Grade Teacher with all attended benefits including pensionary benefits and fix a seniority notionally w.e.f. 3.1.2002.

For Petitioner : Mr.T.Pon Ramkumar

For Respondents : Mr.V.Nirmal Kumar
Government Advocate

ORDER

Heard learned counsel for the petitioner and learned Government Advocate appearing for the respondents and perused the record.

2. Learned counsel for the petitioner submits that the petitioner belongs to Most Backward Class community. He completed his Diploma in Teachers Training Education in July, 2001 and registered his name in the



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Karur District Employment Exchange on 22.11.2001 for the purpose of appointment to the post of Secondary Grade Teacher with Registration No. 4170/2001.

3. Learned counsel for the petitioner further submits that the 3rd respondent initiated steps for appointment of Secondary Grade Teachers in the year 2001 to fill 207 vacancies, which were available at that time, out of which 22 vacancies were backlog vacancies for Scheduled Caste/Scheduled Tribe and Most Backward Class communities. The 3rd respondent called for interview for the candidates whose names were sponsored by the District Employment Exchange, Karur basing on the seniority of registration.

4. Learned counsel for the petitioner further submits that the petitioner though has registered his name in the Employment Exchange in the year 2001 itself, he was not called for to attend the interview. He made several representations to the respondents to make appointments to the Most Backward Class candidates as per the advertisement and communal reservation. The 3rd respondent again called for an interview on 11.01.2002



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for filling up the vacancies of Most Backward Class candidates. After verification and confirmation of the residential and communal status, the District Collector forwarded a list to the 3rd respondent on 19.02.2002. Even after receipt of the same, no appointments were made. Again the petitioner and others made representations to the 3rd respondent. The 3rd respondent informed the petitioner on 29.07.2002 that after receipt of the report from the District Collector, he sought for special permission from the 2nd respondent and after obtaining the permission, the appointments will be made. On 31.05.2003, the District Collector also sent a request to the 3rd respondent to make appointments immediately. Despite all recommendations, the 3rd respondent did not take any steps to appoint the petitioner in the post of Secondary Grade Teacher. In the meantime, the 3rd respondent appointed the petitioner as Secondary Grade Teacher on consolidated pay for a sum of Rs.3,000/- per month as per G.O.Ms.No.100, School Education Department, dated 27.06.2003. Left with no other option, the petitioner joined in the said post.



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5. Learned counsel for the petitioner contends that the petitioner is entitled to get regular appointment as per the communal reservation and as per the original notification. He contends that due to the verification of genuineness of nativity in Employment Exchange Registration, the respondents did not appoint the petitioner as Secondary Grade Teacher in the year 2002. Subsequent appointment on consolidated pay will not cure the defect.

6. Learned counsel further contends that the 3rd respondent by letter dated 15.07.2002, informed to the 2nd respondent that due to the verification of genuineness of nativity of employment registration in respect of Karur District, backlog vacancies were not filled up. He sought permission to fill 40 Secondary Grade Teachers backlog vacancies in Elementary Education Department and 37 Secondary Grade Teachers vacancies in the School Education Department. Considering the said request, the Government issued G.O.(Ms).No.116, School Education Department, dated 11.09.2003 in which the Government ordered that 37 vacancies of Secondary Grade Teacher pertaining to the year 2001-2002



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should be considered as special case and should be filled up as vacancies of the year 2003-2004. Some of the candidates, who are claiming benefit under G.O.(Ms).No.116, dated 11.09.2003, filed W.P.No.30734 of 2008 before this Court. The said writ petition was allowed by order dated 27.01.2009 holding that the petitioners' therein are entitled to be considered under the said Government Order and this Court directed the respondents therein to consider the petitioners names for the purpose of appointment to the 37 vacancies. An appeal filed against the said order in W.A.No.249 of 2011 was dismissed by a Division Bench of this Court.

7. Under those circumstances, the petitioner along with five others filed a writ petition in W.P.No.6794 of 2010 before this Court seeking to consider their representation dated 04.01.2010 to approve their appointment with effect from 2002. The said writ petition was disposed of by order dated 11.03.2013 directing the respondents therein to consider the petitioners' claim for regularization of their appointment with effect from 03.01.2002 as stated in their representation dated 04.01.2010 in the light of G.O.Ms.No.116, dated 11.09.2003.



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8. Learned counsel for the petitioner further contends that the Government passed the impugned order in G.O.(3D) No.35, School Education (G2) Department, dated 10.04.2014 refusing to regularise the service of the petitioner from 03.01.2002, but directed to regularise from the date of appointment under consolidated pay i.e., from 20th July 2004.

9. Learned counsel further submits that the impugned order is totally against the orders passed by this Court and passed with non-application of mind and as such, it is liable to be set aside.

10. Learned Government Advocate, appearing for the respondents basing on the averments made in the counter affidavit filed by the 4th respondent would submit that during the year 2000 and 2001, several writ petitions were filed before the Principal Bench of this Court relating to sponsorship of their names in the District Employment Exchange, Karur District for appointment to the post of Secondary Grade Teacher. The issue involved in those writ petitions was relating to the cancellation of registration certificates and residential certificates of the petitioners therein.



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11. Learned Government Advocate would submit that at that time, number of aspirants of Secondary Grade Teacher posts had produced forged registration certificates and residential certificates in the District Employment Exchange and on the strength of the same, they sought appointment. This Court, by common order dated 08.08.2001, directed the District Collector, Karur for verification of the registration certificates and residential certificates after giving opportunity to the concerned. In compliance of the said common order dated 08.08.2001 of this Court, the District Collector, Karur obtained the list of registered candidates in the District Employment Exchange, Karur as on October, 2001. After scrutiny, the District Collector, Karur had prepared a list of genuine candidates registered their names with genuine documents and prepared a report. As per the report, the total genuine candidates were 129. Subsequently, the 129 eligible candidates were called for interview on 03.01.2002. At the time of interview process, some candidates, who have registered their names in the Employment Exchange from November, 2001 to December, 2001 had fought with the officials contending that the candidates, who had registered their names in November, 2001 should have also been considered for



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appointment. In order to maintain law and order problem, those candidates were asked to present on 11.01.2002 and on the same day, certificate verification was conducted by the officials.

12. Learned Government Advocate further submits that the case of the petitioner herein is that he belongs to Most Backward Class and as on 03.01.2002, there are 77 backlog vacancies available to Scheduled Caste/Scheduled Tribe and Most Backward Class communities and the said backlog vacancies have to be filled before making fresh appointments. He would submit that the Government has issued G.O.Ms.No.100, School Education Department, dated 27.03.2003 for the appointment of Junior Secondary Grade Teachers in the Panchayat Union Elementary Schools under consolidated payment of Rs.3,000/-. The petitioner was appointed in the year 2004 on consolidated basis and subsequently, his service was regularised with effect from 20.07.2004. The request of the petitioner seeking regularisation with effect from 03.01.2002 could not be considered due to the reason that the petitioner was originally appointed on 20.07.2004 only on consolidated payment.



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13. Learned Government Advocate contends that the claim of the petitioner could not sustain due to the reason that the petitioner belongs to Elementary School unit. But, the Government gave permission to fill up the backlog vacancies of 37 Secondary Grade Teachers as special case for the academic years 2003 and 2004 as per G.O.(Ms).No.116, School Education Department, dated 11.09.2003. As such, the said Government Order is not at all applicable to the petitioner.

14. Learned Government Advocate further contends that the petitioner's name was not found place in the selected list prepared in the year of 2001 for want of clarification in respect of the petitioner's original residence. In addition to that, the petitioner enrolled in the District Employment Exchange only in the month of November, 2001. As such, he contends that the petitioner's expectation of seeking notional appointment from 03.01.2002 is not justifiable and sought to dismiss the writ petition.



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15. This Court gave anxious consideration to the submissions made by the respective counsels and carefully examined the material available on record.

16. It is an admitted fact that as per the common order dated 08.08.2001, passed by this Court, the District Collector, Karur prepared a report and gave a list of genuine candidates, who registered their names with genuine documents in the District Employment Exchange, Karur and as per the said list, 129 genuine candidates were called for interview for the post of Secondary Grade Teacher on 03.01.2002. Due to the objections raised by some of the aspirants at that time, the authorities made certificate verification of those candidates on 11.01.2002.

17. The case of the petitioner is that though backlog vacancies are available in the category of Scheduled Caste/Scheduled Tribe and Most Backward Class, the petitioner's case is not considered for appointment. Meanwhile, the Government has passed G.O.Ms.No.100, School Education Department, dated 27.03.2003 for the appointment of Junior Secondary



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Grade Teachers in Panchayat Union Elementary Schools under consolidated pay of Rs.3,000/- and the petitioner was appointed in the year 2004 on consolidated pay and subsequently, his service was regularised with effect from 20.07.2004. The writ petition filed by the petitioner in W.P.No.19255 of 2014 to consider his representation dated 24.06.2016 to approve his appointment with effect from the year 2002 was disposed of by this Court on 03.11.2014 with a direction to the respondents therein to consider the representation for regularising his appointment with effect from 03.01.2002 in the light of G.O.(Ms).No.116, dated 11.09.2003. While disposing the representation of the petitioner, the order passed by the 1st respondent, is impugned in the present writ petition.

18. On careful examination of the entire facts of the case, it is an admitted fact that the petitioner's name was not found place in the list forwarded by the District Collector as per the common order dated 08.08.2001 of this Court. In fact, the list was prepared by the District Collector, Karur with the names of the candidates registered in the District Employment Exchange, Karur as on October, 2001. It is also an admitted



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fact that the petitioner has registered his name in the District Employment Exchange only in the month of November, 2001. Due to this reason only, the petitioner's name was not found in the list prepared by the District Collector, Karur. He was not called for the interview held on 03.01.2002. It is also an admitted fact that the petitioner was appointed as Secondary Grade Teacher on consolidated pay as per G.O.Ms.No.100, School Education Department, dated 27.03.2003 in the year 2004 and regularised with effect from 20.07.2004. As such, there is some force in the contention of the learned Government Advocate that the petitioner was appointed only basing on the Government Order issued in G.O.Ms.No.100, dated 27.03.2003 and as such, the petitioner is nothing to do with the earlier selection process held on 03.01.2002.

19. In the considered opinion of this Court, the petitioner's name was not registered in the Employment Exchange as on the date of sponsoring the names of the candidates, who are registered prior to October, 2001. The respondents have considered the candidates, who registered their names as on October, 2001 for appointment of the Secondary Grade



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Teachers and they were called for the interview scheduled on 03.01.2002.

As the petitioner registered his name in the Employment Exchange only in the month of November, 2001, in our view, the petitioner is not entitled to claim any right to seek the relief sought in this writ petition with effect from 03.01.2002. On this ground alone, this writ petition can be dismissed, as the petitioner failed to make out any case warranting interference of this Court under Article 226 of the Constitution of India.

20. Accordingly, this Writ Petition is dismissed.

21. There shall be no order as to costs.

22. Consequently, connected miscellaneous petition is closed.

26.09.2023

Note: Issue order copy by 29.09.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

- 1.The Secretary to Government,
State of Tamil Nadu,
Education Department, Fort St. George,
Chennai-9.
- 2.The Director of Elementary Education,
College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Karur, Karur District.
- 4.The District Elementary Educational Officer,
Karur, Karur District.



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BATTU DEVANAND, J.

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Pre-delivery Order made in
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26.09.2023