



W.P.(MD).No.22860 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.22860 of 2023

and

W.M.P(MD)No.19106 of 2023

B.Antony Jesintha

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Most Backward Class and Denotified
Communities Welfare Department,
Secretariat,
Chennai-600 009.

2.The Commissioner of Most Backward Class and
Denotified Communities Welfare Department,
O/o. The Most Backward Class and Denotified
Communities Welfare Department,
Chennai-600 005

3.The Headmaster,
Government Kallar Higher Secondary School,
Ethakovil,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to regularize the period i.e., 17.06.2022 to 15.11.2022 as duty period with



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continuity of service and pay the service benefits as per Rule 54-A(3) of the Tamil Nadu Fundamental Rules by considering the petitioner's representation, dated 03.02.2023 within the period that may be stipulated by this Court.

For Petitioner : Mr.S.Mohammed Suhail
for M/s.Ajmal Associates

For Respondents : Mr.M.Prakash
Additional Government Pleader

ORDER

The present writ petition has been filed seeking direction to the 2nd respondent to regularize the period i.e., 17.06.2022 to 15.11.2022 as duty period with continuity of service and pay the service benefits as per Rule 54-A(3) of the Tamil Nadu Fundamental Rules by considering the petitioner's representation, dated 03.02.2023 within the period that may be stipulated by this Court.

2. The petitioner was appointed as P.G Assistant (Tamil) in Government Kallar Higher Secondary School, Ethakovil, Theni District. He belong to B.C category. While in service, the 2nd respondent vide proceedings, dated 31.05.2022 has removed the petitioner from service on the ground that the reservation was not followed properly while preparing the provisional selection



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list. Pursuant to the same, the 3rd respondent vide his consequential proceedings, dated 16.06.2022 relieved her from service. Challenging the same, the petitioner has filed W.P(MD)No.12680 of 2022 and this Court was pleased to dispose of the same on 27.10.2022. The relevant portion of which is extracted as follows:

“3. After hearing the learned senior counsel for the writ petitioners and the learned counsel for the respondents, I am satisfied that a limited relief has to be given to the writ petitioners. It is not in dispute that the Teacher Recruitment Board erroneously applied the reservation policy while finalizing the selection list. Instead of accommodating the meritorious candidates under the open category, they were first adjusted against the communal category vacancies. This was challenged in a batch of writ petitions. A learned Judge of this Court set aside the selection list and directed Teacher Recruitment Board to redraw the list by correctly applying the reservation policy. It is relevant to note that the petitioners were not parties to the said order. Be that as it may, the said order passed by a learned Judge of this Court was affirmed not only by the Hon'ble Division Bench of this Court but also by the Hon'ble Supreme Court. The issue has attained finality. That led to the re-drawl of the list. In the re-drawn list, the writ petitioners did not find place and therefore their services have been terminated. Strictly speaking, I cannot interfere with the orders impugned in these writ petitions. But one aspect stares at the face. The writ petition was filed in June 2022. It was taken up on as many as six occasions. The learned senior counsel for the writ petitioners emphasized that even though as a result of the re-drawl of the list, as many as 80 appointees will have to be shown the door, the writ petitioners alone have been sacked. In the very nature of things, there will have to be parity of treatment. It is also not in



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dispute that the posts which were held by the writ petitioners are still vacant. In these circumstances, I am of the view that the respondents should be directed to take back the petitioners in service. The petitioners will continue to hold the post and be accorded the very same treatment which the remaining 78 appointees will receive. In other words, the petitioners will not be selectively targeted. The fourth respondent shall issue posting orders to the writ petitioners forthwith and without any delay.”

3. Pursuant to the said order, the 2nd respondent vide proceedings, dated 15.11.2022 has reinstated the petitioner as P.G Assistant (Tamil) in the 3rd respondent school. Since the petitioner was relieved from service on 17.06.2022 and thereafter, reinstated in service on 15.11.2022, the period of non-employment was considered as non-employed period and she was not paid with any salary. Hence, the petitioner made a representation to the 2nd respondent through proper channel on 03.02.2023 requesting to treat the period from 17.06.2022 to 15.11.2022 as spent on duty period with continuity of service and pay the service benefits. However, having received the same, the respondents have not acted upon. Hence, this writ petition came to be filed.

4. Considering the limited scope of the prayer sought for in this writ petition, without going into the merits of the case, this Court hereby directs the 2nd respondent to consider the representation of the petitioner, dated 03.02.2023 and pass appropriate orders in accordance with law. The said exercise shall be



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completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

5. Accordingly, this Writ Petition stands disposed of. No costs.
Consequently, connected Miscellaneous Petition stands closed.

20.09.2023

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

- 1.The Principal Secretary to Government,
The State of Tamil Nadu,
Most Backward Class and Denotified
Communities Welfare Department,
Secretariat,
Chennai-600 009.
- 2.The Commissioner of Most Backward Class and
Denotified Communities Welfare Department,
O/o. The Most Backward Class and Denotified
Communities Welfare Department,
Chennai-600 005
- 3.The Headmaster,
Government Kallar Higher Secondary School,
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L.VICTORIA GOWRI, J.

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