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Writ Appeal No.932 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.01.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal No.932 of 2019
and C.M.P.No.7001 of 2019**

1. The Chief Educational Officer,
Karur District, Karur.
 2. The District Educational Officer,
Karur District, Karur.
 3. The District Elementary Educational Officer,
Kulithalai, Karur District, Karur.
 4. The State of Tamil Nadu,
Rep. By its Secretary,
Educational Department,
Fort. St. George, Chennai – 600 009.
- ... Appellants

Vs

1. S.Suresh Kumar,
 2. The District Collector, Karur.
 3. The District Employment Officer,
Karur District, Karur.
- .. Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order dated 07.06.2018 made in W.P.No.18013 of 2012.



Writ Appeal No.932 of 2019

For Appellants : Mr.K.V.Sajeev Kumar
Special Government Pleader
For Respondents : Ms.Y.Kavitha,
for M/s.Giridhar & Sai [R1]
: Mr.K.Suresh,
Government Advocate [R2 & R3]

JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR,J.)

This Writ Appeal has been directed against the order passed by the Writ Court dated 07.06.2018 made in W.P.No.18013 of 2012.

2. That the first respondent/writ petitioner was the resident of Sathankulam Taluk, Tuticorin District from where he migrated to Karur and settled at Karur District. The Tahsildar, Karur also issued a residential certificate to the effect that the writ petitioner/first respondent is residing at Karur from 29.01.2000 onwards.

3. He has registered his name in the Employment Exchange at Karur and the employment enrolment number was also allotted at Karur as 4112/1999.



4. Based on the said employment exchange seniority, his name should have been sponsored by the Employment Exchange while selection process went on to the appointment of Secondary Grade Teacher at Karur District for the year 2000-2001.

5. However, on 17.09.2001 a notice was issued by the District Collector to the writ petitioner that an enquiry regarding registration of employment in Karur was contemplated. For the said show cause notice though reply was given by the writ petitioner, not satisfied with the said reply/explanation offered by the writ petitioner, the District Collector passed an order on 24.12.2001 cancelling the registration of the writ petitioner along with 180 other persons, who were similarly placed persons in Karur Employment Exchange.

6. The order passed by the District Collector dated 24.12.2001 cancelling the en masse registration of the petitioner and similarly placed persons in the employment exchange was under challenge in a writ petition in W.P.No.9 of 2002 by one R.Balagangatharan, who is also similarly placed person like the writ petitioner. In the said writ petition, an interim order of stay was granted, therefore in fact the candidature



registered at the Karur employment exchange can be taken into account for the purpose of appointment as Secondary Grade Teacher for the year 2000-2001. Despite that, such a gesture has not been given and the candidature of the petitioner has not been taken into account for the purpose of appointment to the post of Secondary Grade Teacher. Thereafter, the petitioner had given a representation on 11.11.2002 to the District Collector regarding the bonafide residence of him in Karur District. Thereafter, the petitioner was directed to produce the migration certificate before the Karur employment exchange in order to establish that the petitioner is having a genuine residence at Karur District. On 29.11.2002, such a migration certificate issued by the Tahsildar, Santhankulam was produced, thereafter on 30.04.2003, a migration certificate was also issued by the Tahsildar, Karur stating that the petitioner and his family members migrated to Karur District, where they have been permanently residing.

7. Subsequently, on 29.10.2002, the very writ petition i.e., W.P.No.9 of 2022 was disposed by a learned Judge of this Court, where the following orders were passed:

“Heard the learned counsel for the parties. In the writ petition a prayer has been made for quashing the



impugned order cancelling the residence certificate issued to the petitioner. It appears that subsequently such order of cancellation had been cancelled, as, on verification it was found that the petitioner was resident of the said District. It appears that due to the earlier action of the Collector, names of the candidate could not be sponsored in time as the matters remained pending in this Court for sometime.

2. In such view of the matter, the candidature of the petitioner is to be considered. The question of age bar of the candidate should be considered with reference to 27.12.2000. Since the registration in the employment is to expire on 31.10.2002, such registration should be renewed by the appropriate authority, if an application to that effect is filed by the petitioner within two weeks from the date of the receipt of the order.

The writ petition is ordered accordingly. No costs. Connected WPMPS are also closed.”

8. In view of the said order having been passed by this Court in the said writ petition i.e., in W.P.No.9 of 2002, it was a fond hope of the petitioner and similarly placed persons to get such consideration of appointment to the post of Secondary Grade Teacher, however, the appellants had not come forward to consider the candidature of the petitioner. Thereafter, only in the year 2004 i.e., on 28.09.2004 an order of appointment has been given by the appellant Education Department to



the writ petitioner/first respondent as Junior Secondary Grade Teacher on consolidate pay, thereafter his services have been regularized with effect from 01.06.2006 with time scale of pay. However, the writ petitioner sought for such a selection and appointment to the post of Secondary Grade Teacher on regular basis from 03.01.2002, the date on which his immediate junior based on the employment exchange seniority at Karur District viz., one Sheik Alludin was appointed. Since that plea raised by the writ petitioner by way of representation was not considered by the appellants' Department, the first respondent/writ petitioner was before this Court by filing a writ petition No.18013 of 2012. The said writ petition was ordered by this Writ Court on 07.06.2018, which is impugned in this appeal.

9. Heard Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the appellants and Ms.Y.Kavitha, learned counsel appearing for the first respondent/writ petitioner.

10. On 28.09.2004, the appointment order was given by the appellants' Department, which was justified by the learned Special Government Pleader stating that based on the seniority at Karur District



from the date the writ petitioner has become eligible to be considered as candidate in the employment exchange at Karur District only the appointment was given. Therefore, the claim made by the writ petitioner for earlier appointment with effect from 03.01.2002 is not feasible for compliance.

11. However, the fact remains that the Tahsildar, Sathankulam has given a certification stating that the writ petitioner has migrated from Tuticorin District to Karur District and accordingly, he has registered at employment exchange in Karur, where the enrolment number was also assigned as 4112/1999. The Thasildar, Karur District also had given a migration certificate stating that the writ petitioner's family is permanently migrated to Karur district and have settled.

12. An en masse cancellation of registration at the Karur District employment exchange made by the District Collector, which was assailed before this Court in the writ petition in W.P.No.9 of 2002, where initially interim order of stay was granted, subsequently the writ petition was ordered with a direction to the respondents therein, who are the appellant Department herein to consider the candidature of the writ petitioner therein for appointment to the post, for which he is entitled to based on



the seniority of the employment exchange.

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13. It is needless to mention that the said order passed by the Writ Court in W.P.No.9 of 2002 *mutatis mutandis* to be made applicable to the case of the writ petitioner as the employment exchange registration of the writ petitioner also was cancelled in the common order of the en masse cancellation made by the District Collector dated 24.12.2001.

14. Moreover, the appellants Department itself has come forward to give such appointment to the writ petitioner on 28.09.2004, such appointment would date back from the date on which the petitioner become eligible to get such appointment based on the seniority, which could be calculated from the date, where the immediate junior of the writ petitioner in employment exchange seniority got such appointment viz., Sheik Alludin i.e., from 03.01.2002.

15. Therefore, from 03.01.2002 notionally the writ petitioner is entitled to get such an appointment, however from the date of actual appointment only he would be entitled to get the monetary benefits.

16. When that being the factual matrix of the case, the conclusion



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reached by the learned Judge in the impugned order cannot be found fault with. Hence, we are inclined to sustain the order passed by the learned Judge, which is impugned herein. Accordingly, the said order is sustained.

17. Resultantly, this writ appeal fails, hence it is liable to be dismissed, accordingly, it is dismissed. No costs. Connected miscellaneous petition is closed.

18. The order passed by the learned Judge has to be complied with by the appellants' Department within a period of two months from the date of receipt of a copy of this order, if not already complied with.

(R.S.K.,J.)

(K.B., J.)

03.01.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

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To

1. The District Collector, Karur.
2. The District Employment Officer,
Karur District, Karur.

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