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W.P.No.23916 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

CORAM

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER
KUMAR**

W.P.No.23916 of 2010
and
M.P.Nos.1 & 2 of 2010 & 1 of 2011

P.Ignaciammal

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by the Secretary,
Department of School Education,
Fort St. George,
Chennai – 6.
- 2.The Director of Elementary Education,
D.P.I. Campus,
College Road,
Chennai – 9.
- 3.The District Elementary Educational Officer,
Vellore – 4.
Vellore District.
- 4.The Assistant Elementary Educational Officer,
Walaja East (E),
Ranipet – 632401, Vellore District.



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5. The Secretary,
Tamil Tendral Thiru.Vee.Ka.Middle School,
Ranipet – 632401, Vellore District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to order dated 20.10.2010, in Na.Ka.No.13/2010, on the file of the 5th respondent and quash the same, consequently ratifying the educational qualification of the petitioner by regularizing her service without break-in-service and with all other service and monetary benefits.

For Petitioner : Mr.S.Raja Ravivarma

For Respondents : Mr.K.H.Ravi Kumar
Government Advocate for R1 to R4

ORDER

The brief facts that are relevant for disposal of this Writ Petition are as follows:-

The petitioner herein was appointed as Secondary Grade Teacher in the 5th respondent School which was formerly known as Sri Venkateswara



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Aided Middle School, Ranipet on being sponsored by the District Employment Officer concerned and her services were also regularized, on completion of probation by the respondents 3&4. While so, the 3rd respondent herein through proceedings in Na.Ka.No.371/B2/2010 dated 25.09.2010 directed the respondents 4 & 5 to obtain explanation from the petitioner as to why she should not be dismissed from service for want of possessing the requisite qualification as on the date of initial appointment as Secondary Grade Teacher. Thereafter, on receiving explanation from the petitioner, 5th respondent issued the impugned order dated 20.10.2010, dismissing the petitioner from services and also ordering recovery of entire salary paid to the petitioner while she was working as a Secondary Grade Teacher in the 5th respondent School. Aggrieved by the said impugned order dated 20.10.2010, the petitioner approached this Court by filing the present Writ Petition.

2. The basic qualification that is required to be possessed by the petitioner for being appointed as Secondary Grade Teacher was higher secondary course certificate. The higher secondary course Certificate No.000068 is a certificate, basing upon which the petitioner was appointed



as Secondary Grade Teacher in the 5th respondent school. In order to consider, the petitioner has passed the higher secondary course. it is mandatory that she should secure 50% of marks in each subject. But, in English Part-II subject, the petitioner failed to secure 50% marks in the said higher secondary course. But, the petitioner was appointed erroneously by the 5th respondents School as Secondary Grade Teacher, though she did not pass in the higher secondary course. It is only in the year 2008, the petitioner secured 50% marks in English Part-II subject by appearing for the exam once again. Thus, it is evident that the petitioner is conscious of the not possessing the requisite qualification.

3. As it is an admitted fact that the petitioner does not possess the requisite qualification as on the date of her appointment as Secondary Grade Teacher, and she is fully aware of the subjects in which she failed to secure minimum pass marks. Hence, the appointment of the petitioner is not only is regular but, it is illegal for want of basing requisite qualification as on date of initial appointment as Secondary Grade Teacher. In the circumstances, any amount of continuance in the service will not confer any right on the petitioner.



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4. It is not as if the petitioner is unaware of her failure in higher secondary course, as admittedly, she failed to secure 50% of the marks. Thus, it is a case where the petitioner fraudulently got her name registered with Employment Exchange and got appointed as Secondary Grade Teacher and the same is unabated for a period of 22 years. Such benefit accrued to the petitioner in securing employment cannot be allowed to be enjoyed by the petitioner by continuing her in the service.

5. In that view of the matter, this Court does not find any error or irregularity in the impugned order passed by the 5th respondent dismissing the petitioner from services. Further, coming to the aspect of the recovery of the salary that is paid to the petitioner by the 5th respondent for the services rendered by the petitioner for about 22 years, the question of recovery of salary from the petitioner is not justified. In the circumstances, the impugned order is quashed only to the extent of recovery of the salary amounts already paid to the petitioner.



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WEB COPY 6. Accordingly, this Writ Petition is partly allowed. No costs.

Consequently, connected miscellaneous petitions are closed.

18.09.2024

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Internet : Yes/No

Index : Yes/No

Speaking order:Yes/No

Neutral Citation:Yes/No



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MUMMINENI SUDHEER KUMAR, J.

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