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W.P.Nos.2279 and 2330 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

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THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.2279 and 2330 of 2012
and M.P.No.2 of 2012 (02 Nos)

G.Ravichandran

... Petitioner in
W.P.No.2279 of 2012

T.Jothirajakumari

... Petitioner in
W.P.No.2330 of 2012

Vs.

1.Government of Tamil Nadu
Rep.by its Secretary to Government
School Education Department
Fort St.George
Chennai – 600 009.

2.The Director of Elementary Education
College Road, Chennai -6.
in

... Respondents

both the W.P's.

PRAYER in W.P.No.2279 of 2012: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the second respondent in his letter No.12852/D1/2011 dated 17.06.2011, quash the same and consequently directing the respondents to consider the petitioner for appointment to the post



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of Secondary Grade Teacher in any one of the existing vacancy on par with similarly placed persons like Mr.D.Ravichandradu.

PRAYER in W.P.No.2330 of 2012: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the first respondent in his letter No.20682/C1/2010-3 dated 10.08.2011, quash the same and consequently directing the respondents to consider the petitioner for appointment to the post of Secondary Grade Teacher in any one of the existing vacancy on par with similarly placed persons like Mr.D.Ravichandradu.

In both the W.P's.:

For Petitioner : Mr.S.Mani

For Respondents : Mr.R.Siddarth
Government Advocate

COMMON ORDER

These Writ Petitions are for an identical reliefs and arise out of the similar facts and circumstances and as such, taken up for disposal by way of this common order.

2. The petitioner in W.P.No.2279 of 2012, viz., *G.Ravichandran* was appointed as Preraka in the scheme of Non-formal and Adult Education,



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promoted by the Government of India, on 09.11.1995. However, on the abolition of the scheme, he was disengaged from service on 31.03.1996. Similarly, the petitioner in W.P.No.2330 of 2012, viz., *T.Jothi Rajakumari* was engaged as Preraka with effect from 03.07.1992 and was also disengaged upon the abolition of the scheme in the year 1996.

3. It is the claim of both the petitioners that they possess B.A., degree and also B.Ed., degree. The Government considering the plight of all these qualified persons, issued G.O.Ms.No.479, Education (C2) Department dated 05.05.1989 in and by which, it directed absorbing all these personnel employed in the scheme, as Secondary Grade Teachers. However, the petitioners were not absorbed on the ground that they were not qualified to be appointed as Secondary Grade Teacher. Under these circumstances, one D.Ravichandradu, filed W.P.No.21909 of 2008. This Court, after considering the fact that merely because others had a diploma qualification and therefore, they were appointed as Secondary Grade Teacher and the person who is having higher qualification to be considered as BT Assistant is totally left out, thought it fit to direct the Government to relax the rules to appoint the persons



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with higher qualification in the post of Secondary Grade Teacher. That order was also complied with on 20.10.2009, by appointing the said *Ravichandradu* as Secondary Grade Teacher. Since the petitioners were also similarly situated, the petitioner in W.P.No.2279 of 2012 filed a W.P.No.17411 of 2010 and this Court considering the earlier order passed by this Court in the matter of *D.Ravichandradu* and the submissions of the learned Government Advocate that since the petitioners have reached the age of 50 years, and if a direction is given to consider the claims of the petitioners on merits, the same may be considered, this Court directed the respondents to consider the case in the light of G.O.Ms.No.1211, Education (C2) Department dated 07.09.1989; in the light of the earlier orders passed by this Court in *G.Ravichandradu's case* (cited supra). However, the respondents by the orders impugned in these Writ Petitions rejected the case of the petitioners for appointment as Secondary Grade Teacher on the ground that the petitioners are not qualified and that they cannot be re-engaged belatedly after 14 years their dis-engagement. Therefore, the present Writ Petitions are filed.

4. The learned counsel for the petitioners would submit that firstly,



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it can be seen that from the date of dis-engagement the petitioners have approached for redress without any delay whatsoever. Initially, they approached the Tamil Nadu Administrative Tribunal, which directed the respondents to consider their case. In the second round of litigation, a Writ Petition was filed and the case was directed to be considered. When similarly situated persons were appointed as Secondary Grade Teachers, merely because the petitioners possessed higher qualification, viz., Under Graduation and B.Ed Degree, they were left high and dry. Therefore, the reason as if they made the claim belatedly after 14 years cannot be sustained. Similarly, a specific direction was given after considering the case on merits by this Court in the earlier round of litigation. The respondents, now cannot once again and take umbrage on the reason that the petitioners are not qualified and therefore, the impugned orders cannot be sustained.

5. Per contra, *Mr.R.Siddharth*, learned Government Advocate appearing on behalf of the respondents would submit that in any event, now after coming into the force of Right to Education Act, 2009, the petitioners also do not possess the mandatory qualification of TET, they have also crossed



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the original age of superannuation i.e., 58 years and now 60 years. He would further submit that the ultimate direction of this Court in the earlier round was to consider their cases and no a positive direction to appoint them was issued. Therefore, considering the facts that they have been dis-engaged in the year 1996 and it cannot be prudent to re-engage them, after a lapse of 14 years, the impugned orders were passed. No exception can be given to the said reasons in the impugned order.

6. I have considered the rival submissions made on either side and perused the material records of the case.

7. It can be seen that the petitioner in W.P.No.2279 of 2012 had put in service of about six months. The petitioner in W.P.No.2330 of 2012 had put in service of about three years. On the strength of engagement in a scheme, they are claiming absorption on regular basis. There is no scheme or Government order by which they are entitled to as such they cannot claim regularisation or absorption in teaching posts, as a matter of right. Reliance is placed only upon the orders passed in the connected matter and in the earlier



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round of litigation before this Court. It is true that in the earlier Writ Petition filed by Mr.Ravichandradu in W.P.No.17411 of 2010, this Court after considering the submission made by the Government Advocate directed to consider the case of the petitioners on the basis of G.O.Ms.No.1211, dated 07.09.1989 and the order passed by this Court in W.P.No.21909 of 2008 dated 20.04.2009.

8. In the teeth of the said findings, the reasoning of the respondents that the petitioners are not qualified to be appointed as Secondary Grade Teacher may not hold good, since in the earlier order dated 20.04.2009, this Court had directed the respondents therein to relax the rules and consider them for the post of Secondary Grade Teacher. However, the fact that there had been a huge gap of about 14 years from the date of dis-engagement to the date of passing of the order, cannot be brushed aside as the same is a relevant consideration. Even though it may be a fact that the petitioners were before the Tribunal as well as before this Court, but the fact remains that they have put in only 6 months and 3 years of service and then they were dis-engaged with effect from 31.03.1996.



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9. In that view of the matter,

(i) considering the fact that there was a lapse of 14 years from the date of dis-disengagement and passing of the order in the year 2011;

(ii) The petitioners are presently at the age of 59 years and they do not possess the TET qualification and overall facts and circumstances of the case, I am of the view that the petitioners are not entitled for the relief as prayed in the Writ Petitions.

10. In the result, the Writ Petitions stand dismissed. No costs. Consequently connected miscellaneous petitions are closed.

26.02.2024

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Index:Yes

Speaking Order: Yes

Neutral Citation: No

To

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D.BHARATHA CHAKRAVARTHY, J.,

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