



W.P.No3500



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 13.12.2023

DELIVERED ON: 26.02.2024

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.No.3500 of 2011
and M.P.No.1 of 2011

Tmt.N.Kamatchi

...Petitioner

vs.

1.The Secretary to Government,
School Education Department,
Secretariat,
Chennai – 600 009.

2.The Director of School Education,
College Road, Chennai – 600 006.

3.The Chairman,
Teachers Recruitment Board,
College Road, Chennai – 600 006.

...Respondents

*(R3 impleaded vide order dated 24.04.2019 made
in W.M.P.No.12135 of 2019 in W.P.No.3500 of 2011)*

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Certiorarified Mandamus to call for the records relating to the
impugned order of the 1st respondent issued in Letter No.26850/HSE2/2010 – 3
School Education Department dated 20.12.2010 and to quash the same and also
to direct the respondents to consider the petitioner for the post of Computer



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For Petitioner : Dr.S.Diraviam Dinesh

For Respondents : Mr.S.Ravichandran for R1 & R2
Additional Government Pleader

R3 – No appearance

ORDER

The Writ Petition has been filed challenging the order of the first respondent issued in Letter No.26850/HSE2/2010-3 School Education Department dated 20.12.2010 and also to direct the respondents to consider the petitioner for the post of Computer Instructor on par with other individuals.

2.Heard Dr.S.Diravim Dinesh, learned counsel appearing for the petitioner and Mr.S.Ravichandran, learned Additional Government Pleader appearing for the respondents 1 & 2. Despite notice being served on the third respondent, there was no representation on behalf of him either in person or through his counsel.

3.The learned counsel appearing for the petitioner would submit that the petitioner was appointed as a Computer Instructor in the Government Higher Secondary School at Bhavani Sagar, Erode District on 25.08.1999 through ELCOT (a Government of Tamil Nadu Enterprises) on contract basis and the petitioner served as a Computer Instructor till 31.12.2008. He would submit



that during the year 2006, the Government had formulated a Scheme to regularise the services of the Computer Instructors appointed on contract basis and created about 1880 posts through G.O.(MS) No.187, School Education dated 04.10.2006 and decided to conduct a special test to absorb those Computer Instructors.

4.He would submit that the Government has conducted a special examination through the Teachers Recruitment Board on 12.10.2008 and the petitioner was also permitted to write the examination. Even though, the petitioner had passed in the written examination conducted by the Teachers Recruitment Board, the result of the petitioner was withheld by the Teachers Recruitment Board and the petitioner was informed that she had a break in service from 01.11.2004 to 10.10.2006. He would contend that the petitioner had availed leave for the aforesaid period on medical grounds and no one else in her post was appointed. He would submit that the Government has issued orders to regularise the services of certain persons by condoning the break in service and such individuals are viz., K.Suresh, who had left the service from 01.04.2008 and had never returned to duty, secondly, K.Sridevi, who had a break in service from 21.08.2007 to 21.09.2008, thirdly, G.S.Mubarak Ali, who had a break in service from August 2005 to August 2006.



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5.He would further submit that on 12.10.2008, the date on which the common special test was conducted by the Teachers Recruitment Board, the petitioner was in service. He would contend that the requisite qualification for the said post as prescribed in Letter (MS)No.188, School Education Department dated 04.10.2006 is that “Any Degree with a PG Diploma in Computer Application” and the petitioner is a well qualified person as she has passed B.Com Degree in the year 2002 and had also obtained a PG Diploma in Computer Application in the year 2007. Further, the petitioner has also undergone system training for one year from 14.08.1996 to 31.07.1997 conducted by the Department of Rural Development, Government of Tamil Nadu. He would further submit that the Government have initially appointed all the Computer Instructors who have secured more than 35 marks in the special tests conducted on 12.10.2008. Subsequently, based on the directions of the Hon'ble Supreme Court had conducted a special test again on 22.01.2010 for those who have secured 35 to 50 marks in the test conducted on 12.10.2008, but the respondents had not permitted the petitioner to write the examination alleging that the petitioner did not possess the requisite qualification.

6.He would further submit that the grievance of the petitioner is that the respondents have appointed those persons who have passed the PGDCA even during the year 2008 and 2009 and those individuals who did not even secure 50



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marks in the second special test conducted on 22.01.2010 have not been retrenched from service. He would submit that the petitioner had made representations to the respondents to consider her case and had also made a detailed representation to the respondents dated 29.03.2010, but the same did not evoke any response. He would submit that the petitioner had filed W.P.No.17800 of 2010 before this Court to direct the first respondent to consider the petitioner's representation and this Court by Order dated 09.08.2010 directed the first respondent to pass appropriate orders within a period of 12 weeks. He would further submit that the first respondent in his letter No.26850/HSE2/2010- 3, School Education Department dated 20.12.2010 had rejected the request of the petitioner and aggrieved against the rejection order of the first respondent, the petitioner has filed this Writ petition.

7.Countering his arguments, Mr.S.Ravichandran, learned Additional Government Pleader appearing for the respondents 1 & 2 would submit that the petitioner was appointed through “ELCOT” and that the petitioner had resigned her post on 31.10.2004 and the petitioner has a break in service for the period from 01.11.2004 to 10.10.2006 nearly two years. He would submit that the petitioner had made a representation on 29.03.2010 requesting to consider her case on sympathetic grounds and requested to appoint her as a Computer Instructor on a regular basis. He would contend that the petitioner had filed



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W.P.No.17800 of 2010 before this Court and this Court directed the respondents to consider the representation of the petitioner and the respondents in obedience to the order of this Court dated 09.08.2010, had passed a final order based on G.O.Ms.No.187, School Education Department, dated 04.10.2006. He would contend that the respondents had rejected the claim of the petitioner as she did not possess requisite qualification on the date of certificate verification and had also not fulfilled the criteria as required vide Letter No.26820/Me Nka.2/2010-3 dated 20.12.2010.

8.He would further submit that the petitioner after a break in service for the period from 01.11.2004 to 10.10 2006, had joined duty through Parent Teachers Association on 11.10.2006 and those Computer Instructors who are appointed on contract basis through ELCOT were only permitted to attend the special test and the petitioner also attended the same but she did not qualify the special test conducted on 22.01.2010. He would submit that the petitioner's request in seeking appointment relying on the appointments given to those individuals viz., K.Suresh and two others cannot be considered as those persons were appointed based on the order of this Court passed in W.A.Nos.1630 to 1638, 1345, 1628 of 2009 and W.P.No.27203 of 2008 dated 22.01.2010. He would contend that in the orders passed by this Court, had clearly mentioned that those persons who all qualified in the special test conducted by the



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Teachers Recruitment Board will only be eligible. But, the petitioner in this case has not qualified in the test and that is the reason why her representation was rejected by the first respondent. Hence, this Writ Petition is devoid of merits and seeks to dismiss the same.

9.I have heard the submission made by the respective counsel appearing on either side and perused the materials available on record.

10.The claim of the petitioner in the Writ Petition is that she had been originally appointed as a Computer Instructor pursuant to the Policy Decision taken by the Government and had been continuously working in the service till October 2004 and thereafter, she worked from October 2006. The reason for break in service according to her, is medical exigencies. Such a claim had been made based upon a certificate issued by the Headmaster of the Government High School, Bhavanisagar. The petitioner claims that the break in service was based upon a medical exigencies which had been supported by a medical certificate. However, the petitioner had not explained what was the medical exigencies that had prevented her from attending the duty. However under the impugned order it had been indicated that the period of contract of the petitioner was over by October 2004 and thereafter, she was not engaged from 01.11.2004.

She had rejoined the service on 10.10.2006, according to the petitioner.



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11.It is pertinent to note that the Government by its Government Order dated 04.10.2006 made its Policy Decision to permit the Computer Instructors who were originally appointed through ELCOT on contract basis to be permitted to write a selection test for them to get permanent employment. Only after 04.10.2006, the petitioner admits to have joined the service on 10.10.2006. The impugned order specifies that the petitioner had been reappointed by the Parent Teachers Association. No evidence had been produced by the petitioner to disbelieve the statement made under the impugned order.

12.In such view of the matter, I am of the view that the petitioner had not been in continuous employment pursuant to the contract upon which she had been appointed.

13.In such view of the matter, I am of the considered view that the petitioner had only pursuant to the aforesaid Government Order dated 04.10.2006 had rejoined the duty to claim the benefit which she would otherwise would not have been entitled to as she had admittedly left the service as of 31.10.2004 as the period of contract was over. Hence, I am of the view that there is no illegality or infirmity in the order impugned in this Writ Petition.



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14. In fine, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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K.KUMARESH BABU, J.

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**A pre-delivery order in
W.P.No3500 of 2011**