



W.P.No.29575 of 2015
a n d
Cont.P.No.1053 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	18/12/2023
Delivered on	30/1/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.29575 of 2015
a n d
Contempt Petition No.1053 of 2016

W.P.No.29575 of 2015

J. Anbarasi ... Petitioner

Vs

1. The Secretary to Government
Backward Classes, Most Backward Classes
& Minorities Welfare (MWRU) Department
Fort St. George
Chennai 600 009.
2. The Commissioner of Backward Classes Department
Chepauk
Chennai 600 005.
3. The District Backward Classes, Most Backward Classes
& Minorities Welfare Officer
Thiruvannamalai District. ... Respondents



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Prayer in W.P.No.29575 of 2015: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus to call for the records of the first respondent in connection with the impugned order passed by him in G.O.2D.No.45, BC, MBC & Minorities Welfare (MWRU) Department dated 7/9/2015 and the consequential order passed by the second respondent in Na.Ka.No.B3/2457/2012 dated 9/9/2015 and the third respondent in Na.Ka.No.N3/15714/2012 dated 11/9/2015 and quash the same and direct the respondents to continue the petitioner in the second respondent Department in pursuance of the qualification acquired by her.

Contempt Petition No.1053 of 2016

J. Anbarasi ... Petitioner

Vs

1. Tr.T.Udhayachandran, I.A.S
The Secretary to Government
Backward Classes, Most Backward Classes
& Minorities Welfare (MWRU) Department
Fort St. George
Chennai 600 009.



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2. Tr.J.Chandrakumar, I.A.S
The Commissioner of Backward Classes Department
Chepauk
Chennai 600 005.
3. Tr.Dhandayuthapani
The District Backward Classes, Most Backward Classes
& Minorities Welfare Officer
Thiruvannamalai District. ... Respondents

Prayer in Contempt Petition No.1053 of 2016: Petition filed under
Section 11 of the Contempt of Courts Act, 1971 to punish the
respondents for their willful and intentional disobedience to the order of
the High Court in W.P.No.29575 of 2015 dated 9/2/2016.

For petitioner ... Mr.K.Venkatramani
Senior Advocate
for Mr.M.Muthappan

For respondents ... Mr.S.Silambanan
Additional Advocate General
Assisted by
Ms.C.Sangamithirai
Special Government Pleader



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COMMON ORDER

This writ petition is filed seeking to call for the records of the first respondent in connection with the impugned order passed in G.O.2D.No.45, BC, MBC & Minorities Welfare (MWRU) Department dated 7/9/2015 and the consequential order passed by the second respondent in Na.Ka.No.B3/2457/2012 dated 9/9/2015 and the third respondent in Na.Ka.No.N3/15714/2012 dated 11/9/2015 and quash the same and direct the respondents to continue the petitioner in the second respondent Department in pursuance of the qualification acquired by her.

2. The petitioner has passed her Higher Secondary and Diploma in Teachers Education. The Employment Exchange has sponsored her name for appointment as Secondary Grade Teacher in Adi Dravidar Welfare School on 9/9/1991. The petitioner was promoted as Elementary School Head Master basing on the seniority in Adi Dravida Welfare School in the year 2007. The petitioner has also acquired B.Lit degree from Annamalai University through Distance mode after obtaining due permission from the Department. The petitioner was



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promoted as Tutor-cum-wardon in Adi Dravida School basing on her educational qualification acquired by her subsequently. On the request of the petitioner, she was transferred from Adi Dravida and Tribal Welfare Department to Backward Class Department with a rider that she will be placed as a junior most person in the Department as Tutor-cum-Matron. On the basis of the said orders, the Director of Backward Classes Welfare Department, Chepauk, in Proceeding dated 14/5/2012, absorbed the petitioner as Tutor-cum-Matron in the Government Girls Hostel, Desur, where she has been working as such.

3. During the course of audit, a doubt was raised as to whether the petitioner was eligible to receive B.T scale of pay as the petitioner has passed B.Lit., since the salary applicable to the B.T.Assistant cannot be paid to a person who has acquired B.Lit qualification. As per the Special Rules for Tamil Nadu Backward Classes Welfare Subordinate Service, a Tutor-cum-matron is in Class – II and the educational qualification for the said post are minimum general educational qualification prescribed in the schedule to the General Rules, which is a trained Teachers' certificate of Secondary Grade and a degree in teaching through a study in tamil



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medium. The petitioner has acquired the said qualification at the time of appointment and subsequently, acquired the qualification of Bachelor degree.

4. The petitioner was however, paid lesser salary in spite of her protest. The petitioner sought permission from the Department and applied to get a degree in B.Ed from Annamalai University. She joined the said course in the academic year 2012 – 13 and completed the same in the month of June 2014 and submitted a certificate to the third respondent who in turn communicated the same to the second respondent, vide Proceeding in Na.Ka.No.3/15714/2012 dated 7/1/2015.

5. The first respondent has issued impugned order in G.O.Ms.2 D No.45 Backward Classes, Most Backward Classes & Minorities Welfare Department, dated 7/9/2015 stating that the petitioner does not possess B.Ed qualification and possession of B.Lit. degree in education for the post of Tutor-cum-Matron and thereby, directed the petitioner to revert back to the parent Unit viz., Adi Dravida and Tribal Welfare Department. Challenging the same, the present writ petition is filed.



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6. The District Backward Classes and Minorities Welfare Officer, Tiruvannamalai District has filed a counter affidavit, on behalf of the respondents, wherein it is stated that the petitioner did not possess the minimum educational qualification i.e., B.Ed. Since an objection was raised during Audit, third respondent in his letter dated 21/9/2012, reported the same to the second respondent about non-acquiring of B.Ed degree by the petitioner. The second respondent has addressed a letter dated 1/11/2013 to the first respondent, wherein it was stated as under:-

“According to the Tamil Nadu Backward Classes Welfare Sub-ordinate Service Rules, no person shall be eligible for TCW/TCM in this department unless he/she possesses a degree with B.Ed qualification as the above individual has possessed only B.Litt degree, continuation of the individual as TCM in Tiruvannamalai District is contrary to the rules in force.”



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7. The Government was requested to issue necessary orders for reverting the petitioner back to her parent Department, viz., Adi Dravidar Welfare Department as Tutor-cum-Matron. Consequently, G.O.Ms.No.45 dated 7/9/2015 was issued reverting the petitioner to her parent Department and she was relieved on 11/9/2015.

8. Heard Mr.K.Venkatramani, learned Senior Advocate for the petitioner and Mr.S.Silambanan, learned Additional Advocate General for the respondents.

9. The main contention of the respondents is that in order to hold the post of Tutor-cum-matron in the Backward Classes Department, one must possess B.Ed qualification. The petitioner originally possess Higher Secondary and Diploma in Teacher Education, basing on which she joined as Secondary Grade Teacher in Adi Dravidar Welfare School on 9/9/1991. Subsequent to her promotion as Elementary School Head Master, basing on seniority, she has studied B.Litt degree from Annamalai University through distance education after obtaining due



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permission from the Department and later, she was promoted as Tutor-cum-Warden in Adi Dravida School, basing on her educational qualification. That means the basic qualification required for Teacher-cum-warden in Adi Dravidar School is a degree of L.T or B.T from Madras University or the B.Ed degree. At this stage, the petitioner got herself transferred to Backward Classes and Most Backward Classes and Minorities Welfare Department and basing on her request, she was continued there as Tutor-cum-matron. However, subsequently, it was noticed that the petitioner does not possess B.Ed qualification that are required for Tutor-cum-matron in Backward Classes Welfare Department and thereby impugned reversion orders were issued and she was reverted.

10. According to the learned counsel for the petitioner qualifications which she possess i.e., Bachelor of Literature is sufficient for Teacher-cum-warden post not only in Adi Dravidar Welfare School i.e., Tribal Welfare Department but also in the Backward Classes and Most Backward Classes and Minorities Welfare Department as well.

11. It is the contention of the respondents that in order to work as a



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Tutor-cum-matron in the Backward Classes Department, one must have B.Ed however graduation in Literature i.e., B.Lit is not sufficient. In so far as this aspect is concerned, the petitioner has filed the Special Rules for the Tamil Nadu Backward Classes and Most Backward Classes Welfare Service, wherein at Clause II, it is stated that minimum qualifications required for Tutor-cum-matron is minimum general educational qualification prescribed in the Schedule to General Rules. According to which requirement is a trained Teachers' Certificate of the Secondary Grade in the case of Tutor-cum-matrons and that a degree in teaching through a study in tamil medium in the scale of pay of Tutor-cum-Matrons in a scale of pay prior to 2nd October 1970. In addition to the Teacher Training certificate, one must have a degree in teaching in the scale of pay of 140-5-280-10-250, but the petitioner has not filed the requirements of qualifications to work for Tutor-cum-Matron in the Tribal Welfare Department.

12. The respondents have failed to explain as to why at the first place, G.O was issued transferring the petitioner from Tribal Welfare Department to the Backward Class Department, even with the



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qualifications of Diploma in Teachers Education and B.Litt. If at all there is an objection, the respondents should have stopped then and there. Further, the petitioner was not given any notice asking her to explain as to why she shall not be reverted back to her parent Department on account of not acquiring B.Ed qualification as on the date of her absorbing in Backward Class Department. The petitioner was suddenly given reversion orders which are against the principles of natural justice.

13. Be that as it may, it is a matter of record known to the respondents that after absorption into the Backward Class Department, the petitioner has sought permission from the Department and has joined B.Ed course in Annamalai University by way of Distance mode and accordingly, has completed the same in June 2014. The said certificate was also sent to the third respondent. However, acquiring of such qualification has not been recorded in the service register may be on account of administrative issues. However, as a matter of fact, admitting as on the date of issuing impugned orders on 7/9/2015 by way of G.O.Ms.2 D No.45, Backward Classes, Most Backward Classes & Minorities Welfare Department, the petitioner was qualified to work as



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Tutor-cum-matron as she has by then completed B.Ed. Even then, the respondents have reverted the petitioner to her parent Department.

14. The respondents have put up a strange argument that the petitioner was not in possession of necessary qualification at the time of joining in the post of Tutor-cum-Matron and thereby, she was relieved on 11/9/2015 by way of impugned order. This argument does not stand to the scrutiny of this Court. The mistake is not committed by the petitioner but it is the mistake committed by the respondents. If at all B.Ed qualification is a must, they should not have transferred the petitioner to the Backward Class Department. Having transferred her and absorbed her to the Department and allowed her to work as Tutor-cum-Matron in the Backward Class Department for a considerable period, they cannot now say that the petitioner was not qualified as on the date of joining the Department as Tutor-cum-wardon.

15. If at all the petitioner has not acquired the B.Ed degree, even as on the date of reversion, then, there is some justification in issuing the



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proceeding of the respondents. But the respondents are aware of the

fact that the petitioner has acquired B.Ed as on the date of issuing the impugned order.

16. In respect of this, again the respondents have put up another strange argument that though she has acquired the qualification of B.Ed, the said qualification has not been recorded in the service register, thereby, they tried to justify the issuance of impugned order. It has to be noted that the petitioner has intimated to the respondents about passing of B.Ed degree examination. She has obtained permission from the respondents for studying B.Ed at least at that time, the respondent must have realized that she does not have qualification, but even then, they kept quiet. Once petitioner has informed the respondents much earlier to the impugned order that she has got B.Ed degree not mentioning in the service register is the mistake of the respondents. Whether her acquiring the B.Ed qualification is registered in the service register or not, the respondents are aware of the fact that the petitioner has acquired B.Ed qualification. Perhaps that is the reason why the respondents have



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conveniently decided not to issue any show cause notice to the petitioner prior to issuance of impugned order. Had the show cause notice being issued to the petitioner, the petitioner could have informed the respondents that she has already qualified with B.Ed degree course, then this proceedings would not have been initiated. Therefore, considering the discussion made above, the respondents have issued the impugned proceedings knowing fully well that the petitioner is qualified.

17. Further, what all required is not whether acquiring of B.Ed qualification is mentioned in the service register or not, but what is required is whether the petitioner has acquired B.Ed qualification. Admittedly, as on the date of issuance of impugned order, the petitioner was very much qualified here she should not have been reverted.

18. In view of the above, the impugned orders passed by the first respondent in G.O.2D.No.45, BC, MBC & Minorities Welfare (MWRU) Department dated 7/9/2015 and the consequential orders passed by the second respondent in Na.Ka.No.B3/2457/2012 dated 9/9/2015 and the



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third respondent in Na.Ka.No.N3/15714/2012 dated 11/9/2015 are liable to be quashed.

19. On a perusal of the record, this Court has passed an interim order, on 21/9/2015, directing the respondents to maintain status quo in respect of status of the petitioner. As per the proceedings of this Court, dated 10/4/2023, it is recorded that order dated 21/9/2015 has not been complied with so far and the petitioner is out of service for the past six years. At the time of submission of argument, the learned Additional Advocate General has reported this Court that the petitioner was given posting from 9/6/2023.

20. This writ petition is filed seeking for quashment of the impugned order dated 7/9/2015 and the consequential order passed by the second respondent on 9/9/2015 and also the consequential order passed by the third respondent in Na.Ka.No.N3/15714/2012 dated 11/9/2015 and to continue the petitioner in the second respondent Department in pursuance of qualifications acquired by her.



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21. This Court has earlier passed interim orders on 21/9/2015 itself within ten days of passing of impugned order, dated 11/9/2015, directing the respondents to maintain status-quo. In spite of the said orders, the respondents have not permitted the petitioner to join duty. Accordingly, Contempt Petition was moved. Later, the respondents have given posting to the petitioner and accordingly, the petitioner has joined the respondents with effect from 9/6/2023. Since this Court has passed interim order on 21/9/2015 directing to maintain status-quo and that the respondents have permitted the petitioner to join the respondents only on 9/6/2023, the interregnum period i.e., from 11/9/2015 until she joined on 9/6/2023, has to be treated as the service period. However, on principle of “no work no pay”, though the period from 11/9/2015 until 9/6/2023 is ordered to be treated as continuous of service, the petitioner is not entitled for any monetary benefits. However, the petitioner is entitled for all the benefits notionally including all attendant benefits, continuation service, including grant of increment notionally.

22. Considering the above, **Contempt Petition No.1053 of 2016 is**



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closed.

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23. It is surprising to note that in Tribal Welfare Department, a person who possess B.Ed degree is eligible to work as Tutor-cum-matron, however, the same person is not eligible to work as Tutor-cum-warden when it comes to Backward Classes Welfare Department where requirement of B.Ed is mandatory. It is high time that the concerned Departments shall wake up and should address the qualifications in both the Department in order to avoid this kind of conflict.

24. With above observations, W.P.No.29575 of 2015 is allowed and impugned orders dated 7/9/2015, 9/9/2015 and 11/9/2015 made in G.O.2D.No.45, BC, MBC & Minorities Welfare (MWRU) Department, consequential order passed by the second respondent in Na.Ka.No.B3/2457/2012 and the third respondent in Na.Ka.No.N3/15714/2012, respectively, are quashed. No costs. Consequently, the connected Miscellaneous Petition No.3 of 2015 is closed.



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25. Contempt Petition No.1053 of 2016 is closed.

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mvs.

Index: Yes/No

Neutral Citation: yes/No

To

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Dr.D.NAGARJUN,J

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