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W.P.No.30184 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.30184 of 2015
and
W.M.P.Nos.30923 and 1 of 2015

N.Saraswathy

... Petitioner

Vs.

1. Government of Tamil Nadu,
Rep. by Principal Secretary to Government,
School Education Department,
Fort St.George,
Chennai - 600 009.

2. The Director of School Education,
Chennai - 600 006.

3. The Chief Educational officer,
Nagercoil.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the first respondent relating to Letter No.23076/Nee.Va.1(2)2014-4 dated 03.03.2015 to quash the same and issue consequential directions to the respondents to regularize the services of the petitioner in the post of Secondary Grade Teacher from the date of her initial appointment with consequential benefits.

For petitioner

: Mr.Kasilan



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For respondents : for Mr.M.Ravi
Mr.T.M.Rajaramam

ORDER

This writ petition is filed seeking for a certiorarified mandamus to quash the Letter No.23076/Nee.Va.1(2)2014-4 dated 03.03.2015 and to direct the respondents to regularize the services of the petitioner in the post of Secondary Grade Teacher from the date of her initial appointment with consequential benefits.

2. The petitioner belongs to BC community and has passed Pulavar 2(d) Tamil in Oriental Learning from Madurai Kamaraj University and she has also completed Pandit training examination, thereby, the petitioner is eligible for appointment to the post of Tamil Pandit. The petitioner has registered her name in the employment exchange. In the meanwhile, the Parents Teachers Association attached to the Government Middle School, Kanniyakumari has appointed the petitioner as a Secondary Grade Assistant on 11.09.1995 on a consolidated monthly pay of Rs.200/- and she was working continuously.

3. The petitioner has sent several representations for



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regularization of her services from from the date of her initial appointment, i.e. 11.09.1995. but there was no response. The petitioner filed O.A.No.3129 of 2000 on the file of the Tamil Nadu Administrative Tribunal Seeking appropriate directions to absorb the petitioner in the Government Service as a Secondary Grade Teacher from the date of her initial appointment on a regular time scale of pay. The Tribunal has considered the same and directed the respondents to continue the petitioner in the respective school till the next recruitment for the post of B.T. Assistant is made.

4. The Madurai Bench of this Court in W.P.(M.D.)No.5138 of 2010 has directed to consider the claim of the petitioner in the light of G.O.Ms.No.35, School Education (V.E.) Department, dated 09.02.2007 and to pass orders within a period of eight weeks. As per the above said Government Order regular employment was provided to Vocational Instructors. The petitioner filed an application on 06.08.2014 but the same was not considered and hence, this writ petition.



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5. Counter affidavit is filed by the third respondent and the learned counsel for the respondent submitted that G.O.Ms.No.35, School Education Department dated 09.02.2007 has been issued for the part time Vocational Instructors who are working in temporary posts, where as the petitioner is a Secondary Grade Teacher working in Government Middle School and hence, the above said Government Order is not applicable to her. It is further submitted that the requisite qualification to be regularized as a Secondary Grade Teacher is +2 pass and should possess a Diploma in Teacher Education and also pass T.E.T, which the petitioner does not possess.

6. It is further submitted by the learned Government Advocate for the respondents that the vacancies in Secondary Grade Teachers are upgraded as B.T. Assistants and the said posts are filed under Tamil Nadu School Education Sub-Ordinate Service and since the petitioner was appointed by the Parent Teachers Association on ad hoc basis to meet the vacancy and not by the Teachers Recruitment Board (TRB) and hence, the petitioner's service cannot be regularized.

7. Heard both the sides and perused the materials available on



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8. During the discussion, it is submitted by the learned counsel for the petitioner that this Court has already decided in an earlier case that the Teachers who were appointed by Parents Teachers Association (PTA) attached to the Government Schools cannot be regularized and therefore, the petitioner submitted that he is not pressing the said relief. However, the petitioner counsel sought for increase in salary of the petitioner to match the regular employees on the ground that the petitioner is also discharging duties on par with the regular Teachers. It is further submitted by the learned counsel for the petitioner that the petitioner has given a representation dated 06.08.2014 and the same is not considered.

9. The learned Government Advocate has submitted that as per G.O.Ms.No.35 dated 09.02.2007 only part time Vocational Teachers were appointed by the PTA management in Government and Government Aided Higher Secondary Schools on temporary basis and fully qualified candidates were permitted to be appointed as permanent Vocational Teachers in vacant places in time scale and that since the petitioner is appointed as a part time Vocational Teacher, her services cannot be



regularized.

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10. The learned Government Advocate has cited an order dated **16.10.2006** of this Court in ***W.P.Nos.18532 and 18533 of 2006*** and the relevant portion is extracted hereunder:

"4. The petitioners were appointed only under the aforesaid scheme and by the Government. Therefore, the petitioners were not in Government service and they are not even entitled to maintain these applications before the Tribunal, as rightly pointed out in the reply affidavit filed by the respondents. In as much as the petitioners were not appointed by the competent authorities and the petitioners were not selected for appointment against any of the sanctioned posts, but were appointed only by the Parent Teacher Association under a scheme, the original applications before the Tribunal were not maintainable. Accordingly, the writ petitions are dismissed. No costs."

11. In view of the submissions made by both sides, it is clear that the petitioner who was appointed as part time Vocational Teacher by Parent Teachers Association cannot be regularized and she was also not appointed in the Government service on regular basis and the petitioner counsel submitted that the petitioner is not pressing the said request the same cannot be granted. Therefore, the relief sought for by the petitioner



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seeking for regularization of her services is dismissed.

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12. Further, the representation dated 06.08.2015 given by the petitioner has not been considered by the respondent. The respondent should have considered the same and should have passed appropriate orders. Considering the above, this writ petition is disposed of declining the relief sought for by the petitioner in respect of regularization of services. However, the respondents are directed to consider the petitioner's representation dated 06.08.2015 on merits and dispose it of as quickly as possible at any rate not later than six weeks from the date of receipt of a copy of this order. Connected W.M.Ps are closed. Costs made easy.

07.02.2024

vca

Index : Yes/No
Internet : Yes/No
Citation : Yes/No

DR. D.NAGARJUN,J.

vca

To:



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