



W.P.No.6528 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	6/12/2023
Delivered on	23/1/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.6528 of 2015

P.Tamilarasi ... Petitioner

Vs

1. The 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
College Road
Chennai 00 006.
3. The Joint Director of School Education
(Personnel)
College Road
Chennai 600 006.
4. The Head Master
Government High School
Vanjipalayam, Avinasi
Tiruppur District.



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5. The Registrar

Avinashilingam Institute for Home Science
& Higher Education for Women
(Deemed University)
Coimbatore.

...

Respondents

Prayer: 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 third respondent issued in Na.Ka.No.41573/C2/E1/ 2014 dated 25/2/2015 and quash the same and issue a consequential direction to the respondents to restore the petitioner as B.T.Assistant in Botany at Government High School, Vanchipalayam, Avinasi Taluk, Tiruppur District with all service and monetary benefits.

For petitioner

...

Mr.R.Saseetharan

For respondents

...

Ms.C.Sangamithirai
Special Government Pleader
For R.R.1 to 4

Mr.R.Bharath Kumar
for R.5.

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ORDER

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This writ petition is filed seeking for a certiorarified mandamus to quash the proceedings of the third respondent in Na.Ka.No.41573/C2/E1/2014 dated 25/2/2015, and consequently, direct the respondents to restore the petitioner as B.T.Assistant in Botany at Government High School, Vanchipalayam, Avinasi Taluk, Tiruppur District with all service and monetary benefits.

2. The petitioner has completed S.S.L.C.Examination in the month of April 1990 and completed Higher Secondary Examination in March 1992, and thereafter, took admission in the fifth respondent/Avinashilingam Institute for Home Science & Higher Education for Women, a Deemed University, at Coimbatore for acquiring three years B.Sc Degree in Special Education and Botany, one year B.Ed Degree and one year M.Ed Degree, and the duration of course of study is about 5 years from 1992 to 1997.

3. By virtue of the said qualifications, the petitioner has registered herself in the Employment Exchange of Coimbatore District with



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Registration No.199F01638, dated 20th August 1997. Since she come under the priority category of Scheduled Caste - Arunthathiar, and that her father was an ex-service man, her name was sponsored by the Employment Exchange for appointment to the post of B.T.Assistant (Science) as per the seniority and communal rotation.

4. Teachers Recruitment Board having been considered the qualifications of the petitioner has selected her to the post of B.T.Assistant (Botany) and directed her to appear for verification of certificates on 15/11/2010. Accordingly, she appeared before the concerned authorities and submitted all the documents. Having verified all the necessary documents for appointment, proceedings were issued on 15/9/2011 by the third respondent appointing the petitioner as B.T.Assistant in Botany at Government High School, Vanjipalayam, Tirupur District.

5 . After working for a period of four years, a show cause notice dated 10/12/2014 was issued by the third respondent asking her to explain as to why her appointment should not be cancelled on the ground that she studied five years integrated course in fifth respondent



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University. It is also mentioned that the petitioner has failed in some subjects in Bachelor Degree and subsequently, cleared in the year 1997 and therefore, obtained the certificate of completion of Bachelors Degree in Special Education and Botany was in the month of June 1997, whereas completion of passing of B.Ed degree in April 1996.

6. The petitioner has submitted an explanation on 7/1/2015 stating that the petitioner has submitted all the necessary documents including five years integrated course and having verified all the documents by the Officers of the Board, she was appointed. It is also submitted that the petitioner has followed the pattern of 10+2+3 but passed the subject later and that her degree is an Integrated course and the same has been recognized by the Government and G.O has also been issued to that effect. The third respondent having considered the explanation has issued impugned proceedings dated 25/2/2015 cancelling the petitioner's appointment and removed her from service. Aggrieved by the same, present writ petition is filed.

7. The Joint Director (Personnel) Directorate of School



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Education/third respondent has filed the counter affidavit, wherein it is stated that as per the requirement, a person who seeks the appointment in the cadre of B.T.Assistant in School Education Department of Tamil Nadu Should possess the qualification in 11 + 1 + 3 or 10 + 2+ 3 pattern respectively and the Degree qualification is the basic eligibility criteria for admission in B.Ed course as per the norms of the National Council for Education and Training.

8. It is further stated that Avinashilingam Institute for Home Science and Higher Education for Women (Deemed University), Coimbatore, where the petitioner studied had issued separate degree certificates for passing B.Ed, M.Ed and B.Sc degree without being mentioning or indicating in the degree certificate that the petitioner had studied in the integrated course, but the letter from the Avinashilingam Institute for Home Science and Higher Education for Women (Deemed University), Coimbatore dated 6/1/2015 had mentioned that the petitioner had enrolled in 1992 in B.Sc and was allowed to continue the course study upto 5 years completed M.Ed in 1997 and the University had enclosed a document for certificate of recognition by NCTE for B.Ed and M.Ed Special Education and B.Ed Special Education equivalent to B.Ed



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General Education.

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9. It is further stated that as per G.O.Ms.No.107 dated 18/8/2009, the Personal and Administrative Department and G.O.Ms.No.242 dated 18/12/2012, Higher Education Department, the study pattern for employment in the Government Sector should be in 10 + 2 + 3 or 11 + 1 + 3 pattern and for the appointment to the post of B.T.Assistant in School Education Department, the candidate should additionally qualify the B.Ed degree and that the petitioner had not completed her studies in the prescribed pattern.

10. Heard Mr.R.Saseetharan, learned counsel for the petitioner, Ms.C.Sangamithirai, learned Special Government Pleader for the respondents 1 to 4 and Mr.R.Bharath Kumar, learned counsel for the fifth respondent.

11. The learned counsel appearing for the petitioner submitted that the third respondent having verified all the documents, appointed the petitioner as B.T.Assistant and after allowing her to work for more than four years, cancelled her appointment and that the petitioner has



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undergone the course in 10+2+3 pattern as required by the Government and thereby it is immaterial as to when the petitioner has completed some of the subjects in B.Sc (Botany).

12. It is further submitted by the learned counsel for the petitioner that the Government as per G.O.Ms.No.52 dated 31/1/1996 recognized the degree offered by the fifth respondent University, for appointment in public service and that as per G.O.Ms.No.75 dated 30/6/2011, the Government of Tamil Nadu has recognized five years integrated course offered by Annamalai University. As per G.O.Ms.No.56 dated 24/4/2012, B.Ed Special Education offered by all the University is equivalent to that of B.Ed - General Education and therefore, submitted that the impugned Proceedings of the third respondent are irregular and contrary to law.

13. In support of the case of the petitioner, the learned counsel appearing for the petitioner has cited the following judgments:-

(i). ***W.RUBEN FRANKLIN Vs. GOVERNMENT OF TAMIL***



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NADU AND OTHERS, reported in (2008) 5 MLJ - 1322 and

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***(ii). 1. THE GOVERNMENT OF TAMIL NADU, REP. BY ITS
SECRETARY TO GOVERNMENT, SCHOOL EDUCATION
DEPARTMENT, FORT ST. GEORGE, CHENNAI 9 AND 2 OTHERS
VS. W.RUBEN FRANKLIN (W.A.NO.928 OF 2008) .***

14. The learned Special Government Pleader appearing for the respondents 1 to 4 submitted that as per G.O.Ms.No.107 dated 28/8/2009, one has to complete the course in the pattern of 10+2+3. Therefore, appointment of the petitioner in the post of Teacher itself is irregular.

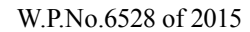
15. There is no dispute that the petitioner has completed S.S.L.C, Higher Secondary Education and graduation in Botany in 10+2+3 pattern, which is mandatory for employment in Government service. In order to get the appointment as B.T.Assistant, a candidate is required to be qualified in 10+2+3 pattern. But the petitioner got the certificate in graduation in Botany, subsequent to passing of B.Ed. The petitioner has joined in five years integrated course in the fifth respondent University,



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which is a deemed University. In all integrated courses, there will be more than one course that will be offered at a stretch. On completion of five years course, as per the Scheme of the integrated course, the candidates will get three certificates viz., graduation, B.Ed and M.Ed. As per G.O.Ms.No.107, dated 28/8/2009, one has to complete 10+2+3 pattern and subsequently, B.Ed and M.Ed degrees. Whereas in the integrated course, initially three years period is allocated for completion of graduation; fourth year for completion of B.Ed and 5th year for completion of M.Ed course. That means, the candidate who completes five years of study successfully, will be awarded with three degrees like graduation, B.Ed and M.Ed.

16. The petitioner has though studied in the pattern of three years degree, one year B.Ed and one year M.Ed has passed B.Ed in the month of April 1996, M.Ed in the month of May 1997. However, she has completed the graduation in the month of June 1997. Normally, if a candidate wants to acquire Degree, B.Ed and M.Ed will be required to complete the graduation first and only on successful completion of graduation, candidate will be admitted in B.Ed and after, completion of



17. The petitioner at the first place has not suppressed anything before the third respondent authorities. She has submitted all her certificates including the certificates of passing of graduation of B.Ed and M.Ed before the Employment Exchange concerned which has sponsored, the petitioner for recruitment of B.T.Assistant. The third respondent has verified all the documents, more particularly the certificates of educational qualifications to show that the petitioner has passed B.Ed in April 1996, M.Ed in May 1997 and degree in June 1997. Without raising any objection, respondents have appointed and posted her as B.T.Assistant in one of the Schools and allowed her to work for four years.

18. If at all there is any irregularity in the appointment of petitioner



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as B.T.Assistant with reference to her year of passing, educational qualifications, objection should have been raised at the first instance itself by the respondents. If any objection is raised at the time of appointment, the petitioner would have chosen either to join some other employment suitable to her qualifications or should have studied B.Ed and may be M.Ed once again, so that whatever impediment or anomaly which the third respondent is raising could have been rectified. But, the third respondent has permitted the petitioner to be admitted as a Teacher and allowed her to continue for a period of four years and that she has discharged her duties without any remarks. Therefore, at this stage, removing her from service on the ground that she has not passed the graduation prior to acquiring B.Ed, amounts to causing injustice to the petitioner.

19. According to the third respondent, the main objection is that the petitioner has not followed the Government Order, for acquiring educational qualifications in the pattern 10 + 2 + 3. According to the requirements of the said G.O., one has to pass S.S.L.C, Higher Secondary graduation and B.Ed and subsequently, if the petitioner is interested for post graduation, this is the pattern one has to study. In fact, the



contention of the third respondent that the petitioner has not followed this pattern is incorrect. The petitioner has actually followed this pattern as required in the G.O. She has studied S.S.L.C.Higher Secondary Graduation, B.Ed and M.Ed. G.O., did not speak specifically the sequence and pattern of study. Therefore, the third respondent cannot question that she has not studied in 10 + 2 + 3 pattern.

20. It is a matter of experience that whenever an integrated course is being offered and studied, what is required by the College and the University is to study the integrated courses in the pattern which it is offered to and appear for the examination and clear all the subjects, only after that all the degrees would be presented in respective courses, no matter in which sequence or pattern, the candidate has passed and completed the course. Though in normal course of study, as already observed, admission for B.Ed will not be given unless graduation is completed, in case of integrated courses, it is immaterial as to whether a person completes the graduation in all subjects or not before admitting in B.Ed. In the graduation, if a candidate has not passed some subjects, he will be given promotion to study B.Ed course and similarly if a person has not passed some subjects in B.Ed, he will be given admission to



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M.Ed, all these courses are integrated courses. At the end of five years what the College/University would see is to whether the student has passed all the subjects in graduation, B.Ed and M.Ed and in case if the student completes all the subjects in all the three courses, then they will issue all the three certificates.

21. Further, admittedly, five years integrated course has been recognised by the University Grants Commission. University is the institution which awards degree to the students on successful completion of the courses. Only the fifth respondent University has to decide as to whether a student who has not completed the graduation can be admitted in B.Ed. If at all students who have not completed all the subjects in graduation, then University should not have admitted the petitioner in B.Ed course and so also in M.Ed course, thereby, it can be construed that as per the policy of University Grants Commission and University even if a candidate has not completed all the subjects in Graduation, he will be admitted in B.Ed or M.Ed in integrated courses. Therefore, the third respondent cannot question the policy of the University in permitting the petitioner to study B.Ed and M.Ed without completion of graduation.

22. Further, as on the date of providing employment what all



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required for the third respondent is whether the petitioner has completed her graduation and is qualified in B.Ed and M.Ed. There is no dispute that the petitioner was qualified graduate and got B.Ed and M.Ed as on the date of joining employment. On the date of joining employment, she has passed all the subjects in all courses.

23. It is not the case of the third respondent that the degrees acquired by the petitioner were not recognised. If really, that is the case, the third respondent should have refused to admit the candidates having completed five years integrated course. Therefore, the third respondent who has no business in which pattern, the petitioner passes the examination cannot now raise an objection that the petitioner has not passed all subjects in a manner which according to the third respondent should have been passed. If this argument is accepted, there could be many students who have completed the graduation in piece meal. It is for the convenience and standard of the students to appear for the examinations and pass. Third respondent cannot regulate the appointment basing on the manner in which the students passes the subjects in a course.

24. Even otherwise, if at all the petitioner has studied B.Ed first rather



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than graduation, then, the petitioner should have been given an opportunity for studying the B.Ed once again, so that whatever the objection raised by the third respondent should have been cured by the petitioner. But without doing so, the petitioner was removed from service after extracting work for a period of four years as B.T.Assistant. In view of the above, the impugned passed by the third respondent is irregular and does not stand to the scrutiny of this Court.

25. Further prior to her removal, the respondents should have conducted an enquiry after giving charge memo. The petitioner was appointed as regular teacher and thereby prior to her removal, regular departmental enquiry should have been conducted, thereby, principles of natural justice have been grossly violated. She cannot be removed from service summarily.

26. In the result, this writ petition is allowed and impugned proceeding dated 25/2/2015, passed by the third respondent are quashed. The third respondent is directed to restore the petitioner as B.T.Assistant. However, in so far as monetary benefits are concerned, since the petitioner has not worked from 25/2/2015, until the date of



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reinstatement, she is not entitled for any monetary benefits however, her services shall be considered as continuous from 25/2/2015 until the date of reinstatement and entitled for all service benefits notionally.

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mvs.

Index: Yes/No

Neutral Citation: Yes/No

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Dr.D.NAGARJUN,J

mvs.



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Pre-delivery order made in
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23/1/2024