



WP(MD) No.4401 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.03.2024

CORAM

THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P(MD)No.4401 of 2021
and W.M.P.(MD)No.3547 of 2021

R.Deebarani

... Petitioner

Vs.

1.The Chief Educational Officer,
O/O. the Chief Educational Office,
Ramanathapuram District.

2.The District Educational Officer,
O/o. the District Educational Office,
Paramakudi, Ramanathapuram District.

3.The Headmaster,
Government Higher Secondary School,
Parthibanur, Ramanathapuram District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, calling for the records relating to the impugned recovery order passed by the 3rd respondent in his proceedings in Na.Ka.No.198-2021 dated 19.01.2021 and quash the same as illegal.



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For Petitioner : Mr.Mohammed Imran for
M/s.Ajmal Associates

For Respondents : Mr.V.Om.Prakash,
Govt. Advocate.

ORDER

The petitioner herein is working as B.T.Assistant (Tamil) in the third respondent school. The incentive increment that was awarded in favour of the petitioner for acquiring the post graduate qualification viz., M.A., (Tamil) was withdrawn on the ground that the petitioner acquired the post graduate qualification as well as B.Ed., qualification simultaneously between the years 2002-2005. Aggrieved by the said proceedings dated 19.01.2021, the petitioner approached this Court by filing the present Writ Petition.

2. When the matter is taken up for consideration, the learned counsel for the petitioner brought to the notice of this Court, an order passed by a learned single Judge of this court in W.P.(MD)No.5571 of 2023, dated 21.03.2023, wherein the claim of the petitioner herein was considered for promotion, when such claim was not considered by the respondents therein



on the ground that the petitioner acquired the post graduate degree and B.Ed., degree simultaneously. The learned single Judge after examining the factual aspects recorded the finding as under:

“4.After carefully considering the rival contentions, I am more than satisfied that the writ petition has to be allowed. The petitioner joined M.A. academic programme in the year 2002. After completing the first year, she discontinued the said Post Graduate course. Thereafter, she joined B.Ed. degree course in the year 2003 – 2004. After successfully completing the same, she rejoined M.A. degree in the second year. She was readmitted and she successfully completed the said Post Graduate course in May 2005. On the face of it, there appears to be broad over-lapping. But in fact, that is not the case. Post Graduate degree was acquired by the petitioner by pursuing the course during the following years (ie., 2002 – 2003 and 2004 – 2005). B.Ed. course was undergone during the intervening period (ie., 2003 – 2004). A mere look at the sequence of events would indicate that there was no over-lapping at all. The learned senior counsel draws my attention to the certificate issued by Annamalai University. It clearly states that the petitioner was re-admitted to second year during the year 2004 – 2005. When a similar issue arose before the Hon'ble Division Bench, the Hon'ble Division Bench vide order dated 24.11.2017 made in W.A.(MD)No. 1035 of 2017 held as follows:-

“2. The controversial question involved in this case is



whether the respondent herein had completed his M.A. degree and B.Ed. degree simultaneously so as to treat his as ineligible for being considered for the post of P.G. Assistant. The learned Single Judge, having gone through the relevant materials, found that the respondent had completed the first year of M.A. Degree course by 2008 and after discontinuing the same, he had joined the B.Ed. Course in the year 2008 and completed the same by the year 2010 and thereafter, he had continued the M.A. Degree by re-joining the course in the year 2010 and completed the same in the year 2011, and thereby allowed the writ petition directing the appellant to consider the case of the respondent herein for the post of PG Assistant. Challenging the same, the present writ appeal has been filed by the Teachers Recruitment Board.

3. On going through the materials placed before us and the order passed by the learned Single Judge, especially, the copy of the certificate issued by the Annamalai University to show that the respondent had done his first year degree in M.A. during the period 2007-2008 and 2010-2011 and he had discontinued the interregnum period viz., 2008-2009 and 2009- 2010 and also the copy of the B.Ed., certificate of the respondent, produced at page 5 of the typed set of papers, we find that the learned Single Judge has rightly held that the respondent has done both the courses in different academic years and it cannot be treated as having been done simultaneously.”

3. From the above, it is evident that there is a factual finding recorded by the learned single Judge in respect of the very same petitioner holding that the petitioner has not acquired the post graduate degree and B.Ed.



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Degree simultaneously. According to the learned counsel for the petitioner though a writ appeal was filed as against the said order dated 21.03.2023, no stay is granted and writ appeal is pending. As the very same issue has fallen for consideration before this Court as in this case and a factual finding was recorded by this Court and the same is operating as on date, this Court does not deem it necessary to examine the very same aspect once again.

4. In the light of the order passed by this Court in W.P.(MD)No.5571 of 2023, dated 21.03.2023, the impugned order is liable to be set aside and the same is accordingly set aside and Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

05.03.2024

NCC : Yes/No

Index : Yes/No

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MUMMINENI SUDHEER KUMAR, J.

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