

In the High Court of Judicature at Madras

Dated : 18.10.2010

Goram :

The Honourable Mr. Justice P. JYOTHIMANI

WRIT PETITION Nos. 10310 of 2003 & 4673 of 2004

Mrs. M. Sasikala ... Petitioner in WP. 10310/2003

R. Kayathri ... Petitioner in WP. 4673/2004

VS

1. The Director of School Education  
College Road, Chennai-6.

2. The District Educational Officer  
Tirunelveli District, Tirunelveli.

3. The Secretary, Nehru National  
Higher Secondary School,  
Vadakangulam Post, Tirunelveli  
District-627116.

... Respondents 1 to 3 in both WPs

4. Mrs. R. Kayathri ... Respondent 4 in WP. 10310 of 2003  
(impleaded as R4 vide  
order dated 17.12.2009  
by NKKJ in WPMP.No.988 of 2009  
in W.P.No.10310 of 2003)

PETITIONS under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the proceedings of the third respondent dated 6.3.2003 and quash the same (WP.No.10310 of 2003) and Writ of Mandamus directing the respondents to pay salary to the petitioner in the scale of pay 5500-175-9000 from 30.4.2003 onwards (WP.No.4673 of 2004).

For Petitioner in WP.No.10310/2003 : Mr. M. Sureshkumar

For Petitioner in WP.No.4673/2004 & R4 in WP.No.10310/2003:  
Mrs. Vijayakumari Natarajen

For Respondents 1 and 2 in both WPs : Mr. C. Mani Bherathi, GA

For Respondent-3 in WP.No.10310/2003 & :

WP.No.4673 of 2004 : Mr. C. Prabhakaran  
Mr. P. K. Sabapathi

Third respondent school is an aided private school governed by the provisions of the Tamilnadu Recognised Private Schools (Regulations) Act. In respect of a vacancy arose for a Post Graduate Tamil Teacher, it appears that the third respondent school appointed the petitioner in WP.No.10310 of 2003 as Post Graduate Teacher in Tamil by an order dated 7.3.2002. On the date of her appointment, the petitioner in WP.No.10310 of 2003 was a Master Degree holder in Tamil with B.Ed. However, it is seen that her basic degree was B.Sc. Chemistry and therefore, she has not studied the basic degree in Tamil. When the third respondent school has sent the proposal of the petitioner in WP.No.10310 of 2003 for approval, the same was returned by the Educational Authorities by quoting the Tamilnadu Higher Secondary Educational Service Special Rules, which were amended as per G.O.Ms.No.62 School Education (HS) Department dated 2.4.2001, by which, it was clarified that for the direct recruitment for the post of Post Graduate Teacher in Tamil, the candidate must have obtained a Bachelor's Degree and a Master's Degree in Tamil. Further, she was removed from service from 6.3.2003 AN. Hence, WP.No.10310 of 2003 came to be filed.

2. Since the proposal of the third respondent for appointment of the petitioner in WP.No.10310 of 2003 came to be returned by the Educational Authorities, it appears that the third respondent school, in order to fill up the said post, which is within the sanctioned strength, has appointed one Mrs.R.Kayathri - the fourth respondent in WP.No.10310 of 2003 and petitioner in WP.No.4673 of 2004, who has, admittedly, complied with the requirement of the educational qualifications having obtained both Bachelor's Degree and Master's Degree in Tamil. The said appointment has been effected by the third respondent school by following due procedure contemplated under law and it is based on the same, the fourth respondent in WP.No.10310 of 2003 came to be appointed in the third respondent school as a Post Graduate Teacher in Tamil from 29.4.2003.

3. After such appointment, when the third respondent school approached the Educational Authorities for approval of the appointment of the said Mrs.R.Kayathri, the same has not been replied. Therefore, she filed WP.No.4673 of 2004 for a direction to the Educational Authorities to grant approval of her appointment from 29.4.2003. It also appears that the Educational Authorities have taken a stand not to grant approval for the reason that WP.No.10310 of 2003 is pending.

4. On the other hand, the counter filed by the Educational Authorities in WP.No.4673 of 2004 shows that the only ground, on the basis of which, the approval of the petitioner in WP.No.4673 of 2004 has been withheld, is the pendency of WP.No.10310 of 2003. On a

reference to the said Government Order in G.O.Ms.No.62 School Education (HS) Department dated 2.4.2001, by which, the Government has brought in the amendment in respect of the qualifications for appointment of the Post Graduate Assistants in language (Tamil), it is clear that in respect of the direct recruitment, the qualification required, which has been incorporated as per the said Government Order, is as follows :

'(i) Must have obtained a Bachelor's Degree and Master's Degree in Tamil language or their equivalent in respect of which recruitment is made and

(ii) B.T. Or B.Ed.degree of a University in the State or a teaching degree of equivalent standard.'

5. The said Government Order stipulating qualifications for the post of Post Graduate Assistants was in existence from 2.4.2001 whereas the petitioner in WP.No.10310 of 2003 was appointed by the third respondent school on 7.3.2002. Therefore, by virtue of the qualifications prescribed by G.O.Ms.No.62 School Education (HS) Department dated 2.4.2001, the petitioner in WP.No.10310 of 2003 was not qualified. In such view of the matter, the claim of the petitioner in WP.No.10310 of 2003 to have her appointment approved by the Educational Authorities cannot be sustained. In fact, the Educational Authorities have correctly quoted the said Government Order to the effect that the petitioner in WP.No.10310 of 2003 was not qualified on the date of her appointment, which cannot be found fault and there is absolutely no reason to interfere with the Educational Authorities in rejecting the approval in the appointment of the petitioner in WP.No.10310 of 2003 with effect from 7.3.2002.

6. Therefore, WP.No.10310 of 2003 is dismissed. No costs.

7. Inasmuch as it is not even the case of the Educational Authorities that the fourth respondent in WP.No.10310 of 2003 and petitioner in WP.No.4673 of 2004 was not qualified and her appointment in the third respondent school with effect from 29.4.2003 is within the sanctioned strength and her appointment was not approved due to the pendency of WP.No.10310 of 2003, it is for the Educational Authorities to grant approval for her appointment in the third respondent school with effect from 29.4.2003. It is needless to say that the Educational Authorities must pass appropriate orders granting approval for the appointment of the fourth respondent in WP.No.10310 of 2003 with effect from 29.4.2003, if there is no other impediment, within eight weeks from the date of receipt of a copy of this order. The Educational Authorities shall grant approval, if the fourth respondent is qualified with effect from the date of her appointment in the third respondent school and comes within the sanctioned strength as approved by the Educational Authorities and

shall pay salary to the petitioner forthwith. WP.No.4573 of 2004 stands allowed. No costs.

Sd/  
Asst.Registrar

/true copy/

  
Sub Asst.Registrar

TO

1.The Director of School Education,  
College Road, Chennai-6.

2.The District Educational Officer,  
Tirunelveli District, Tirunelveli.

3.The Secretary, Nehru National  
Higher Secondary School,  
Vadakangulam Post, Tirunelveli  
District-627116.

2 ccs To Mr.S.Natarajan, Advocate, SR.74963, 74964

1 cc To Government Pleader, SR.74838

1 cc To Mr.C.Prabakeran, Advocate, SR.74962

RS

WP.Nos.10310 OF 2003  
& 4573 of 2004

CK(CO)  
srs 22/10/2010