

(2014) 09 MAD CK 0354
In the Madras High Court
Case No : W.P. (MD) No. 13072 of 2009

J. Daniel

APPELLANT

Vs

The Director of Most Backward and De-Notified Community

RESPONDENT

Date of Decision : 17-09-2014

Acts Referred:

Citation : (2014) 09 MAD CK 0354

Hon'ble Judges : S. Nagamuthu, J

Bench : Single Bench

Judgement

S. Nagamuthu, J.—The petitioner was initially appointed as Secondary Grade Teacher on 29.06.1990 by the second respondent. The said post was governed by the Special Rules for the Tamil Nadu Backward Classes Welfare Subordinate Service, which falls under Category-6 of Class-I of the said rules. While in service, the petitioner secured B.A. Degree in History in the year 1993 and B.Ed. degree in the year 1995. Thereafter, he secured B.A. Degree in Tamil in the month of May 1996. After May 1996, since he had B.A. Degree in Tamil and B.Ed. Degree, he was eligible for being appointed as a Teacher in Language (Tamil), which is governed by the Special Rules for Tamil Nadu Higher Secondary Backward Classes Service. Thereafter, he was appointed as Teacher in Tamil by transfer, in the year 2000. In the mean while, he had secured M.A. Degree in Tamil in the year 1998 and M.A. Degree in English in the year 2001. with effect from 12.05.2003, he was posted as Headmaster of a Middle School, which falls under Category-2 of Class-I of the Special Rules for the Tamil Nadu Backward Classes Welfare Subordinate Service. Thereafter, he was promoted as P.G. Assistant (Teacher in academic subject) by transfer from the Tamil Nadu Backward Classes Welfare Subordinate Service with effect from 20.11.2003. The next avenue of promotion was to the post of Headmaster of a Higher Secondary School, which falls under Class-I of the Special Rules for Tamil Nadu Higher Secondary Backward Classes Service. The respondents 1 and 2 had drawn a panel for such promotion by taking 01.03.2006 as the crucial date. In the said panel, the petitioner's name was not included, and the third respondent's name

was included and promoted. Challenging the same, the petitioner is before this Court.

2. I have heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for respondents 1 and 2 and the learned counsel appearing for the third respondent and also perused the records carefully.

3. According to the petitioner, as on 01.03.2006, he was fully qualified for being included in the panel for promotion as per the Special Rules for the Tamil Nadu Backward Classes Welfare Subordinate Service. But, in an arbitrary manner, he had been omitted to be included in the panel. But in the counter filed by the second respondent, it is stated that the petitioner was not included, because he did not satisfy the norms prescribed for promotion to the post of Headmaster under the Special Rules for Tamil Nadu Higher Secondary Backward Classes Service. But it is the contention of the respondents that the petitioner did not have 10 years of experience as a Teacher or Pandit in Tamil in a Secondary School with a degree in Teaching or Training School etc.

4. I have considered the above submissions.

5. Before going into the factual aspects of the matter, let us have a quick look into the provisions of the relevant Rules. There are two Service Rules. As mentioned above, the first one is the Special Rules for the Tamil Nadu Backward Classes Welfare Subordinate Service. Secondary Grade Teacher falls within Category-3 of Class-I of the said Rules. Similarly, Pandits in Tamil fall within Category-6 of Class-I of the said Rules. The table appended to the said Rules, prescribes the methods of recruitment. So far as Pandit in Tamil is concerned, the Rule states as follows:

So far as the method of recruitment of Secondary Grade Teachers is concerned, the Rule states as follows:

6. The petitioner was initially appointed as Secondary Grade Teacher, which falls in Category-3 of Class-I of the Special Rules for the Tamil Nadu Backward Classes Welfare Subordinate Service. Admittedly, he was appointed on transfer as Tamil Pandit only in the year 2000. The post of Pandit in Tamil falls under Category-6 of Class-I of the Special Rules for the Tamil Nadu Backward Classes Welfare Subordinate Service. Therefore, he actually became functional as Pandit in Tamil only from the year 2000, though before the year 2000, the petitioner had B.A. Degree in History in the year 1993, B.A. Degree in Tamil in the year 1996, B.Ed. Degree in the year 1995 and M.A. Degree in Tamil in the year 1998. Though the petitioner was qualified to be appointed as Pandit in Tamil, as a matter of fact, he was appointed as Pandit in Tamil only in the year 2000. Thereafter, he was appointed as Headmaster of a Middle School on 12.05.2003 and thereafter as P.G. Assistant in English only on 20.11.2003.

7. In the case of Special Rules for Tamil Nadu Higher Secondary Backward Classes Service, the method of recruitment to the post of Headmaster, which falls

in Class-I of the Special Rules, is dealt with in the annexure.

Name of the Class/ Category

Method of Recruitment

Qualifications

Class-I

Headmaster and Headmistress

By promotion

i) A Master's degree of a University in the State or a Master's degree of equivalent standard or a certificate issued by the University of Madras for having undergone the Certificate course in Science and Humanities for Graduate Teachers in High Schools.

ii) B.T. Or B.Ed., degree of a University in the State or a degree or equivalent standard.

iii) Experience for a period of not less than ten years as Pandits in Tamil or Teacher or both in Secondary Schools with a degree in Teaching or Training School or Higher Secondary School recognised by the Director of School Education subsequent to acquiring a teaching degree in any one or all the schools specified above; and

iv) Must have passed the Account Test for Executive Officers or the Account Test for Subordinate Officers. (Part-I).

8. Here in this case, according to the petitioner, he has put in 10 years experience as required under Sub-Para(iii) of the above annexure. He would submit that his experience of 10 years should be counted for the purposes of this provision from 1995 when he was qualified for being promoted as Tamil Pandit. To repeat, it should be stated that in 1993 he had secured B.A. Degree in History and in 1995 he had secured B.Ed. Degree. According to the petitioner, from 1995 onwards, since he was working either as teacher or as Pandit with B.Ed. qualification, his experience should be counted from 1995 for the purposes of the above provision. But according to the respondents, his experience should be counted only from the year 2000.

9. I have considered the above submissions.

10. A plain reading of the above provisions would make it clear that experience for a period of not less than 10 years should have been acquired as a Pandit in Tamil or a Teacher or in both. It may be true that one would have had the qualification for being appointed as Pandit or a Teacher for many years, but that is not material for the purposes of this Rule. What is material is the services put in either as Pandit or as Teacher or both, with necessary qualification. Here, in this case, though the petitioner had the qualification for being appointed as

Pandit even in the year 1995, he was actually appointed as Tamil Pandit only in the year 2000. Therefore, experience which the petitioner gained between 1995 and 2000 cannot be counted. This experience was only as a Secondary Grade Teacher and not as Tamil Pandit. Experience to be counted for the purposes of the above provision is experience as Tamil Pandit or as Teacher. The teacher means, teacher as required under Class-II of the Special Rules for the Tamil Nadu Higher Secondary Backward Classes Service or Category-3 of Class-I of the Special Rules for the Tamil Nadu Backward Classes Welfare Subordinate Service. Admittedly, in this case, the petitioner had gained experience either as Tamil Pandit or as Teacher with B.Ed. qualification and other educational qualifications, only from the year 2000. Therefore, as on 01.03.2006, as rightly contended by the respondents, the petitioner had not gained 10 years of experience as required under the Special Rules for Tamil Nadu Higher Secondary Backward Classes Service, for being considered for the post of Headmaster. Thus, as on 01.03.2006, since the petitioner was not even qualified for the post of Headmaster, he was rightly omitted.

11. I do not find any infirmity in the decision taken by the respondents in giving promotion to the third respondent. Therefore, I hold that the writ petition is devoid of merits and the same is liable to be dismissed.

12. In the result, the writ petition fails and accordingly it is dismissed. No costs.