

(2006) 08 MAD CK 0042

In the Madras High Court

Case No : Writ Petition (MD) No's. 6982, 6987 and 6990 of 2006

K. Kathiresan, S. Palanivel and P. Arumugam

APPELLANT

Vs

The District Elementary Educational Officer, The Assistant
Director and The District Collector

RESPONDENT

Date of Decision : 30-08-2006

Acts Referred:

Citation : (2006) 08 MAD CK 0042

Hon'ble Judges : N. Paul Vasanthakumar, J

Bench : Single Bench

Advocate : S. Nagamuthu, for the Appellant; Pala Ramasamy, Special Govt.
Pleader, for the Respondent

Judgement

N. Paul Vasanthakumar, J.—In all the writ petitions, petitioners seek a direction to the first respondent to issue appointment orders pursuant

to his proceedings dated 12.10.2005 appointing the petitioners as secondary grade teacher in any one of the Government Elementary Schools

under the control of the first respondent.

2. The brief facts necessary for disposal of the writ petitions as stated in the affidavit in support of the writ petitions are as follows.

(a) The petitioners are natives of Sivagiri Taluk, Tirunelveli District and they underwent their school education at Hindu Nadar Uravinmurai

committee Higher Secondary School, Puliyangudi at Tirunelveli District and diploma course at DIET, Munanjipatti, Tirunelveli District. After

passing Diploma in Teacher Education, petitioners registered their names with the District Employment Office at Tirunelveli on 18.11.2002,

4.10.2000 and 10.12.2002 respectively. Subsequently petitioners shifted their family from Tirunelveli to Tanjore and the petitioners in W.P. Nos.

6982 and 6990 of 2006 have permanently settled with their families and are residing at Nellithoppu Village, Kovilur Post, Papanasam Taluk,

Tanjore District and the petitioner in W.P. No. 6987 of 2006 is residing at 10A7/60, Gurusamy Chettiyar Colony, Othakadi Street,

Madulampettai, Kumbakonam, Thanjavur District.

(b) After becoming permanent residents at Thanjavur, petitioners have made applications for transfer of their Employment Registration from the

District Employment Office, Tirunelveli to the District Employment Office, Thanjavur. The said re-registration was regulated by G.O.Ms. No. 66

Labour and Employment (N-II) Department, dated 15.7.2002. According to the petitioners, for such re-registration, only two conditions are to be

satisfied; that is, production of migration certificate issued by the Tahsildar concerned and an attested copy of the new ration card showing the new

address. According to the petitioners, on production of the said two documents, the concerned District Employment Office is bound to re-register

the name of the petitioners in the transferred district.

(c) Petitioners have separately submitted family migration certificates issued by the concerned Tahsildar dated 7.3.2005, 10.1.2005 and

30.8.2005 respectively and attested copies of new ration cards. On verification of the said documents, petitioner's registration in the Employment

Exchange was also transferred to Thanjavur District and the petitioners were assigned new registration numbers.

(d) It is the further case of the petitioners that in October, 2005, the first respondent called for a list from the Employment Exchange, Thanjavur

District for selection to the post of Secondary Grade Teachers pursuant to which the District Employment Office, Thanjavur, sponsored

petitioners' name for the said posts. The first respondent by proceeding dated 12.10.2005 called upon the petitioners to appear before him for

verification of the certificates for issuance of appointment order. The petitioners also appeared before the first respondent on 15.10.2005 at 10.00

a.m. at Rajah's Higher Secondary School, Thanjavur and the first respondent verified all the certificates and satisfied with the same. Petitioners

were informed by the first respondent that after finalising the entire formalities, appointment order will be communicated to them. However, no

order was communicated even though the petitioners approached the first

respondent several times and therefore the petitioners have filed the respective writ petitions.

3. The learned Counsel appearing for the petitioners submitted that non-issuance of the appointment orders to the petitioners is due to their transfer of employment registration from Tirunelveli to Thanjavur District and the petitioners having satisfied the conditions prescribed in G.O.Ms. No. 66 dated 15.7.2002 for re-registration of their names and the Employment Exchange also having entertained the re-registration by transfer, petitioners cannot be denied appointment because selection to the post of Secondary Grade Teachers is being made in the State of Tamil Nadu only based on the Employment seniority.

4. The learned Counsel appearing for the respondents on instructions submitted that the petitioners having been the residents of Tirunelveli district and migrated to Thanjavur District, transferred their employment registrations and therefore pending verification, petitioners are not given appointment orders.

5. I have considered the rival submissions made by the learned Counsel appearing for the petitioners as well as the learned Special Government Pleader appearing for the respondents.

6. The point for consideration in these cases is whether the petitioners' transfer of employment registration from Tirunelveli to Thanjavur District is valid and whether the first respondent is entitled to withhold issuance of appointment orders to the petitioners particularly when the migration certificate, ration card and the employment re-registration stands as such.

7. For proper appreciation of the eligibility conditions for transfer of Employment registration from one district to another district, it is useful to refer

G.O.Ms. No. 66 dated 15.7.2002, which reads as follows.

GOVERNMENT OF TAMILNADU ABSTRACT

Employment Exchanges-Registration, Change of Address and Re-registration from one District to another District- Revised procedure - Orders issued.

LABOUR AND EMPLOYMENT (N2) DEPARTMENT

G.O.Ms. No. 66

Dated 15.7.2002

Read:

- 1) From the Director of Employment and Training, Letter No. Pa.Pa.1/20086/2001, dated 21.9.2001 and 11.7.2002.
- 2) From the Principal Commissioner and Commissioner for Revenue Administration, Letter No. Re.V(3)/76320/2001-3, dated 21.5.2002.

ORDER:

As per the existing procedure, the registrants who seek re-registration from one District to another District should get a certificate about his

residence in the new District from the Tahsildar concerned and get his registration in the new District with his seniority in the old District. In this

regard, complaints have been received that some registrants are furnishing bogus residential certificates to transfer their registration to Districts

where there are considerable number of vacancies. Because of such re-registration, the seniority of the native registrants are affected and such

affected native registrants are creating law and order problems in their Districts by way of agitation, dharna, etc.

2) In order to prevent re-registration with bogus residential certificates, the Director of Employment and Training in his letter first read above has

sent a proposals for the discontinuance of the existing procedure of obtaining residential certificate from the Tahsildar concerned in the new District

and for obtaining a family migration certificate for re-registration from one District to another District. The Director has also requested the

Government to issue orders that the new registrants should be allowed to register their names in the Employment Exchanges only on production of

Ration Card and for registration for change of address within the District, the registrants should produce the family migration certificate.

3) The Principal Commissioner and Commissioner for Revenue Administration, in his letter second read above has accepted the proposal of the

director of Employment and Training for issue of family migration certificate instead of residential certificate by the Tahsildars for re-registration of

name from one District to another District subject to the condition that their names must be registered based on the Ration Card.

4) The Government, after careful consideration, pass the following orders:

i. New registrants should produce an attested copy of their Ration Card as proof

of address.

ii. Registrants who seek re-registration from one District to another, should produce--

(a) family migration certificate issued by the Tahsildar concerned in the new District in the form enclosed with this G.O., and

(b) an attested copy of the new Ration Card showing the new address.

iii. Registrants who seek change of address within the same District should produce an attested copy of their Ration Card showing the new address.

5). The Director of Employment and Training and the Principal Commissioner and Commissioner for Revenue Administration are requested to

communicate copies of this Order to all their subordinates for strict compliance and also to make vide publicity in leading Newspapers.

(BY ORDER OF THE GOVERNOR)

M.B. PRANESH,

SECRETARY TO GOVERNMENT

As rightly contended by the learned Counsel appearing for the petitioners, it is clear from the above Government order, only two requirements are

to be satisfied by a person who is shifting the place of residence and seeking transfer of employment registration. First one is to produce family

migration certificate issued by the Tahsildar concerned in the new district and the second one is production of attested copy of new ration card

showing the new address.

8. In the present cases, the concerned Tahsildar has issued family migration certificates in favour of the petitioners concerned and the same find

place among the typed set of papers at page No. 5 in the respective writ petitions. The Civil Supplies and Consumer Protection Department issued

family ration card to the petitioners and their respective families and the same are also produced pursuant to which the second respondent

transferred the petitioners' employment registration from Tirunelveli District to Thanjavur District. The petitioners were also called for certificate

verification individually by the first respondent on 12.10.2005.

9. From the perusal of the above documents it is clear that the petitioners satisfied the requirements of proof of residence by producing ration card

and proof for their migration from Tirunelveli to Thanjavur, pursuant to which the second respondent transferred the petitioners' employment

registration and the first respondent also invited the petitioners for selection to the post of Secondary grade Teacher. Admittedly none of the

certificates viz., migration certificates, family ration cards and residence certificates were found erroneous or cancelled by any of the Officer.

10. The cancellation of residence certificate by the District Collector, Tiruvarur, without reference to other documents, was found erroneous by the

Division bench of this Court in the decision reported in 2005 WLR 433 (A.S. Santhalatha v. The District Collector, Tiruvarur and Ors.) In the said

decision, the residence certificate was cancelled by the District Collector and the same was found erroneous by the Division bench and the

petitioner therein was directed to be considered for selection treating the residence certificate valid.

11. Here in these cases, the residence certificates are not cancelled, so also the migration certificates. Therefore, there is no justification on the part

of the first respondent in not issuing appointment orders, if the petitioners are otherwise eligible to be appointed.

12. Hence writ of mandamus are issued directing the first respondent to issue appointment orders to the petitioners for the post of Secondary

Grade Teachers, if they are otherwise qualified, without reference to their migration from Tirunelveli District to Thanjavur District. Orders to that

effect shall be passed by the first respondent within four weeks from the date of receipt of copy of this order. No costs. Connected miscellaneous

petitions are closed.