

(2008) 02 MAD CK 0027

In the Madras High Court

Case No : Writ Petition No. 19915 of 2003

K.R. Somasekara

APPELLANT

Vs

The Director of Elementary Education, The District
Elementary Educational Officer and The Tamil Nadu
Administrative Tribunal

RESPONDENT

Date of Decision : 28-02-2008

Acts Referred:

Citation : (2008) 02 MAD CK 0027

Hon'ble Judges : P.K. Misra, J;K. Chandru, J

Bench : Division Bench

**Advocate : P. Manoj Kumar, for the Appellant; S. Rajasekar, Addl. Govt. Pleader,
for the Respondent**

Final Decision : Allowed

Judgement

K. Chandru, J.—The petitioner was an holder of Karnataka Teacher Training Certificate. He was appointed as a Secondary Grade Teacher

in Panchayat Union Primary School, Kanakalapalli (Kannada) School, Thalli Union, Dharmapuri District. The appointment order dt. 25.7.1995

was made subject to the evaluation of the Certificate by the competent Authority. The Government, in the process of evaluation, found that the

Certificate was deficient and he did not have the minimum percentage of marks as required under G.O. Ms. No. 1236 Education dated

17.9.1984.

2. Since the petitioner's Certificate was not on par with the Tamil Nadu Government Certificate, he was terminated from service vide an order

dt.29.4.97. He was also not paid his wages for the period he had worked. The petitioner filed O.A. No. 3469 of 1997 before the Tamil Nadu

Administrative Tribunal. Pending the original application, though the petitioner was granted an interim order, as it was not obeyed, the petitioner

also filed C.A. No. 133 of 1998. The OA as well as contempt application came to be heard together. The Tribunal accepted the averment of the

State and dismissed the O.A. The contempt application was also rejected on the ground that the petitioner was relieved from duty even before the

interim order was given.

3. Today, when the matter was taken up, Mr. S. Rajasekar, learned Additional Government Pleader brought to the notice of this Court, a

judgment of the Division Bench of this Court reported in the case of Anthony Savarimuthu, K. v. The Director of School Education 1985 WLR

178 wherein the evaluation standard prescribed in G.O.Ms. No. 1236 dated 7.9.1984 was approved by the Division Bench. Therefore, the

learned Additional Government Pleader submitted that the order of the Tribunal was in accordance with law.

4. However, Mr. P. Manoj Kumar, learned Counsel for the petitioner brought to the notice of this Court that subsequent to the order of the

Division Bench dated 28.11.1984, by a letter dated 12.7.1990, the application of G.O.Ms. No. 1236 Education dated 17.9.1984 came to be

exempted in respect of Teachers who have undergone Teacher Training in Kannada medium and the condition for minimum mark had been

exempted. The order dated 20.7.2000 reads as follows:

In the circumstances stated in the letters cited above, I am directed to state that the conditions (ii) and (iii) in G.O.Ms. No. 1236 Education dated

17.9.1984 can be exempted in respect of persons who have undergone Teacher Training in Kannada Medium alone for evaluating their certificates

if they possess other qualifications except conditions (ii) and (iii) in the above mentioned G.O. and this order may kindly be communicated to all the

subordinate officers with proper instructions.

5. Condition No.(ii) related to having 50% marks in the aggregate in S.S.L.C. Exam and condition number (iii) related to having obtained 50%

marks in each subject in T.T.E. Learned Additional Government Pleader appearing for the respondents accepts that such an amendment had been

issued by the Government subsequent to the Division Bench judgment.

6. It is an admitted fact that the petitioner is a Kannada Teacher and he is

eligible for the exemption found in the amended G.O. Therefore, the Certificate obtained by the petitioner should be evaluated in the light of the amendment issued by the State. The petitioner is also having necessary qualification to hold the post of Kannada Teacher. His termination on the ground that he is having Kannada Teacher's Certificate, which is not on par with the requirement made by the State, is incorrect. Unfortunately, this fact was not brought to the notice of the Tribunal at the time of passing of the impugned order and hence order of termination dated 29.4.1997 will have to be set aside. Accordingly, the order passed by the Tribunal is set aside.

7. But, however, subsequent to his termination during the last ten years, the petitioner had not served in the said post. Therefore, the question of giving full backwages does not arise. However, the petitioner is restored to his post and 50% of backwages is to be paid within a period of eight weeks from the date of receipt of a copy of this order. This will be in addition to granting his full pay for the period from 25.7.1995 to 29.4.1997 i.e. the period during which he had actually worked. Further, the entire period from the date of his initial recruitment shall be considered as duty period for all purposes such as increment, scale of pay and for terminal benefits. The writ petition is allowed accordingly. No costs.