
(2002) 07 MAD CK 0173

In the Madras High Court

Case No : Writ Petition No. 3354 of 1995 and W.M.P. No. 5421 of 1995

L. Celine

APPELLANT

Vs

The District Educational Officer, Thakkalai, Kanyakumari District, The Assistant Educational Officer, Colachel, Kanyakumari District, The Director of Elementary School Education, Madras, The Headmaster, St. Mary's Primary School, Colachel, The Secretary and Commissioner, Karnataka Secondary Education Examination Board, Bangalore, Karnataka and The District Elementary Educational officer, Nagercoil, Kanyakumari District

RESPONDENT

Date of Decision : 11-07-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 07 MAD CK 0173

Hon'ble Judges : D. Murugesan, J

Bench : Single Bench

Advocate : S. Mahimairaj, for the Appellant; S.V. Duraisolaimalai, G.A., for the Respondent

Final Decision : Allowed

Judgement

D. Murugesan, J.—The petitioner is a holder of Teacher Training Certificate from S.J.E.S Teachers Training Institute, Pattarahalli, Bangalore, of the year 1983. The said certificate was certified to be equivalent to the certificate issue by the Director of Elementary Education, Government of Tamilnadu. The Secretary and Commissioner, Karnataka Secondary Education Examination Board, Bangalore, Karnataka, by its proceedings dated 31.7.1986 also made it clear that the Karnataka Secondary Education Examination Board is entitled to go into the genuineness of the said certificate at the later point of time. On the strength of the said order , the petitioner was appointed as a Secondary Grade Teacher in the 4th respondent School on 1.6.1988. It is not in dispute that the said equivalent certificate was considered by the 3rd respondent and the same has

been evaluated as could be seen from the endorsement made in the Service Register of the petitioner on the following terms " Evaluated as equivalent to Tamilnadu Secondary Grade Teachers Training Certificate as per the Directors proceedings Rc.No.220014/B3/86 dated 31/7/86". It is also not in dispute that pursuant to the said evaluation, the petitioner was paid the salary.

2. The question of equivalency and the consequential evaluation in respect of the Teacher Training Certificate issued by the Karnataka Secondary Education Examination Board came up for consideration before the Division Bench of this Court in a Batch of Writ Petition in W.P.No.5385/1988 etc. By order dated 14.7.1994, the Division Bench directed such of those persons who were employed on the strength of the Teacher Training Certificate issued by the Karnataka Secondary Education Examination Board to apply to the Karnataka Secondary Education Examination Board for issuance of equivalent certificate within a period of two months from the date of the said order and if such applications are made, the same shall be disposed of within a period of three months by the Karnataka Secondary Education Examination Board after affording opportunity to the applicants and the result of the enquiries shall be communicated to the Director of Elementary Education, State of TamilNadu. The petitioner herself having made such an application to the Karnataka Board though in my considered view, was not necessary, the said application has not been considered and neither the petitioner was given any opportunity as directed by the Division Bench nor the result of the enquiry was communicated to the Director of Elementary Education by the Karnataka Secondary Education Examination Board. Placing reliance on the above directions, the second and third respondents by the impugned communications to the 4th respondent-Management, directed to terminate the service of the petitioner on the ground that the Teacher Training Certificate obtained by the petitioner from Karnataka Secondary Education Examination Board is not considered to be equivalent to the certificate issued by the State of Tamilnadu.

3. Mr.S.Mahimairaj, learned counsel for the petitioner would contend, it is not the fault on the part of the petitioner in non-disposal of the application. There was no communication from the Karnataka State Board to the 3rd respondent herein even though the petitioner had applied to the Karnataka Secondary Educational Examination Board in time as directed by the Division Bench. Learned counsel also would submit that in fact the certificate obtained by the petitioner from the 5th respondent Board was already considered to be equivalent and the same was also evaluated by the 3rd respondent as early in the year 1986. Hence, there is no question of further verification of the genuineness of the certificate.

4. Mr. Duraisolaimalai, learned Government Advocate would submit that since the petitioner has not obtained fresh certificate from the 5th respondent board as directed by the Division Bench, the impugned orders were passed directing the 4th respondent management to terminate the service of the petitioner as the petitioner is not qualified to hold the post of Secondary Grade Teacher.

5. I have given my due consideration to the above submissions. The undisputed facts in this case are that the petitioner is a holder of Secondary Grade Teacher Training Certificate from the 5th respondent Board and the same was certified to be equivalent to the certificate issued by the State of Tamil Nadu by the proceedings of the 5th respondent dated 31.7.1986. It is also an undisputed fact that pursuant to the said certificate, the 3rd respondent has also evaluated the same as could be seen from the endorsement made in the Service Register. While that being the position, it is also relevant to note by proceedings dated 31.7.1986, the 5th respondent while certifying the Teacher Training Certificate obtained by the petitioner as equivalent to the certificate issued by the state of TamilNadu has also indicated that in case the said certificate was not found to genuine, action would be taken. As on today, there is no such proceedings either initiated or concluded by the 5th respondent holding that the equivalent certificate issued by the proceedings dated 31.7.1986 was not genuine. In that event, there is no difficulty in holding that the equivalent certificate issued by the 5th respondent is valid as on today and the consequential evaluation made by the 3rd respondent also to be held in force. In such event, merely because the application of the petitioner to the 5th respondent Board has not been disposed of, cannot be taken advantage of by the 3rd respondent to contend that the certificate already obtained by the petitioner was not genuine. Such a presumption which has been caused in the impugned order cannot be sustained as there is no action by the 5th respondent cancelling the earlier certificate issued in favour of the petitioner by its proceedings dated 31.7.1986. In that view of the matter, the impugned order directing the 4th respondent-Management to terminate the service of the petitioner on the ground that the petitioner has not produced further equivalent certificate cannot be sustained in the eye of law. Moreover, on the strength of the said certificate, the petitioner was appointed and the certificate obtained by the petitioner was also evaluated by the 3rd respondent, Director of Elementary Education as early as in the year 1986 and the petitioner has been continuously working and has been drawing salary.

6. In the above reasons, I find every merits in the grievance of the petitioner. Accordingly, the writ petition stands allowed and the impugned orders of the 1st and 2nd respondent are quashed. No costs. Consequently, W.M.P.No.5421 of 1995 is closed.