

(2015) 09 KAR CK 0026

In the Karnataka High Court

Case No : Writ Petition No. 23594 of 2015 (S-RES)

Latha D.M.

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 30-09-2015

Acts Referred:

Citation : (2015) 09 KAR CK 0026

Hon'ble Judges : R.S. Chauhan, J.

Bench : Single Bench

Advocate : G. Balakrishna Shastry, Advocate, for the Appellant; R.B. Satyanarayana Singh, AGA, for the Respondent

Final Decision : Allowed

Judgement

R.S. Chauhan, J.—Aggrieved by the order dated 08.05.2015, whereby, the Under-Secretary to the Government, Education Department, Primary & Secondary, Bengaluru, has declined to approve the appointment of the petitioner to the post of Assistant Teacher, on the ground that she possesses higher qualification than required for the said post, the petitioner has approached this court.

2. Briefly the facts of the case are that on 03.12.2005, the petitioner was appointed on the post of Assistant Teacher in the Adarsha Higher Primary School, Kuvempunagar, run by respondent No. 6, Adhyayana Vidya Trust (Regd.). The petitioner had completed her B.A., B.Ed, prior to her appointment; presently she is working as Head Mistress of the said school. In the year 2007 - 2008, the school came under the approval of Grant-in-Aid. Therefore, the school filed an application for approval of seven assistant teachers to the concerned authority. The petitioner's name was on top of the list so submitted by the school. In order to consider the said application, a three member committee was constituted. In its meeting dated 07.08.2013, the committee recommended that the school should be sanctioned grant-in-aid. Subsequently, the Commissioner for Public Instructions forwarded the recommendation of the committee and recommended that the school should, infact, be sanctioned the grant-in-aid. However, by order

dated 08.05.2015, while the Under-Secretary has approved the post of three Assistant Teachers, he has rejected the post occupied by the petitioner, as mentioned above, ostensibly on the ground that the petitioner possesses higher qualification than required for the post. Hence, the petitioner before the court.

3. Mr. G. Balakrishna Shastry, the learned counsel for the petitioner, has raised the following pleas before this Court: firstly, in an endorsement, dated 03.05.2012 issued by the Directorate of Primary Education, it was made amply clear that after the children Education Act came into force in the State of Karnataka, the NCTE with regard to appointment and qualified teachers to be appointed to Primary school came into effect. It was further made amply clear that before appointment for the 6th - 7th standard, the teachers should have B.A., B.Ed or B.Sc, B.Ed qualification. Since the petitioner has the qualification of B.A., B.Ed, the Under-Secretary is unjustified in claiming that she is overqualified.

Secondly, over qualification can not be a hindrance for appointment. Infact, in the field of education a person with a higher qualification should be preferred over a person with a lower qualification. After all, it is meritocracy which needs to be emphasized rather than mediocrity. Therefore, the order passed by the Under-Secretary is an arbitrary order.

Thirdly, an identical issue was raised before this Court in W.P. Nos. 34613-34616/2001 decided on 17.12.2002 (GANGAPATHI YAMANAPPA MANE & OTHERS Vs. MUDALAGI EDUCATION SOCIETY & OTHERS) by learned Single Judge of this Court. Even according to the said order, a person with higher qualification could not be denied the grant of grant-in-aid on the ground that the person holds a higher qualification. The said issue was subsequently confirmed in Writ appeal No. 6375/2009 decided on 14.12.2009 (THE STATE OF KARNATAKA & OTHERS Vs. SRI MALLAPPA SHIVAPUTRAPPA DODMANI & OTHERS) by the learned Division Bench of this Court. According to the learned counsel, present case is squarely covered by both the judgments passed by this Court.

4. Learned counsel for the State has frankly conceded, and in view this court rightly so, even according to the respondent Nos. 1 to 4, the present case is covered by the judgment pronounced by this court in GANGAPATHI YAMANAPPA MANE & OTHERS Vs. MUDALAGI EDUCATION SOCIETY & OTHERS and by the judgment passed by the learned Division Bench of this Court in THE STATE OF KARNATAKA & OTHERS Vs. SRI MALLAPPA SHIVAPUTRAPPA DODMANI & OTHERS.

5. Heard the learned counsel and perused the impugned order.

6. Admittedly, by the endorsement dated 03.05.2012, it was made amply clear that teachers who are teaching 06th - 7th standard they had to be appointed compulsory especially those who are holding qualification of B.A., B.Ed, or B.Sc. B.Ed. Admittedly, the petitioner is holding the qualification of B.A., B.Ed. Therefore, the Under-Secretary is unjustified in claiming that she is holding a higher qualification for the said post.

7. Even if it is conceded for the sake of argument that the petitioner may be holding a higher qualification, but a higher qualification cannot be an obstacle to an appointment. Considering the fact that teachers' duty is to educate the young children, considering the fact that education system has to encourage merit, it is in the interest of the education system to have as well qualified teachers as possible. Therefore, holding higher qualification cannot be a ground for disqualifying the teacher for the grant of grant-in-aid. Thus, the petitioner cannot be denied the benefit of grant-in-aid.

8. Similar issue had arisen in Ganapathi Yamanna Mane's case (supra), both the learned Single Judge and the Learned Division Bench were of the opinion that a person with higher qualification cannot be denied the benefit of grant-in-aid. Therefore, the present case is squarely covered by the said judgments.

9. For the reasons stated above, the order dated 08.05.2015 is set aside. The respondents are directed to approve the petitioner's appointment to the post of Assistant Teacher and to pay her all consequential benefits.

The petition is allowed. No order as to costs.