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(2006) 02 MAD CK 0203

In the Madras High Court

Case No : Writ Petition No. 26192 of 2005 (T) and O.A. No. 4516 of 2002

P. Maragatham — APPELLANT

Vs

The District Adhi Dravidar Welfare Officer, The Special Tahsildar, (A.D.W.) and The Commissioner, Department of Adi-Dravidar Welfare — RESPONDENT

Date of Decision : 21-02-2006

Acts Referred:

Citation : (2006) 02 MAD CK 0203

Hon'ble Judges : N. Paul Vasanthakumar, J

Bench : Single Bench

Advocate : N. Fidelia, for the Appellant; D. Malarvizhi, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

N. Paul Vasanthakumar, J.—The writ petition is filed for issuance of Writ of Certiorari to call records relating to the proceedings of the 1st respondent dated 26.06.2002 and made in Na.Ka.W2/27942/2002 and quash the same.

2. The brief facts of the writ petition is as follows:

The writ petitioner belongs to Schedule Caste community and she was appointed as Watchwomen and Servant maid in the year 1992 at Sinkanapunari, Sivagangai District. During her service as Watch women, she acquired M.A. History through open university from Annamalai University and B.Ed., degree through correspondence from Bharathidasan University during the year 1997 and 2000 respectively.

3. The petitioner while working as watch women at Government Girls Hostel (A.D.W.) Karaikudi, she made a representation to the Director (A.D.W.) Ezhilagam, Chepauk, through the 1st and 2nd respondents requesting for recruitment by Transfer as Secondary Grade Teacher since she had possess M.A. History and B.Ed., qualification and petitioner also pointed out that there were

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some vacancies at Karaikudi school and thereafter, the petitioner was promoted as Secondary Grade Teacher by the Order of the 1st respondent dated 28.05.2002. In the said order it is stated that the petitioner promotion is subject to ratification by the Director of Adhi Dravidar Welfare Officer, and if the same is not ratified then her appointment be cancelled without any notice. The petitioner joined as Secondary Grade Teacher in Government High School, Adhigaram, Sivagangai District. While working as Secondary Grade Teacher, the impugned order of reversion was passed by the 2nd respondent on 26.06.2002 stating that the Director of Adhi Dravidar Welfare Officer through his letter dated 28.05.2002, stated that there is no provision for giving promotion to the petitioner directly as Secondary Grade Teacher and therefore the petitioner was given a reversion order by the 2nd respondent.

4. The 1st respondent herein, filed a counter affidavit stating that the petitioner was posted as Secondary Grade Teacher and her post will be regularised after getting ratification from the higher authorities and that she will be reverted if ratification is not received. It is further stated that the Director of Adhi Dravidar Welfare officer in his letter dated 28.05.2002 stated that there is no provision for promotion as teacher from the post of watchmen and servant maid and since the appointment being irregular the petitioner was reverted as servant maid by order dated 28.06.2002.

5. The learned Counsel for the petitioner argued that the service rules were issued to the Adhi Dravida Welfare schools through G.O.Ms.No.405 Homes Department dated 22.09.1963, wherein for the post of Secondary Grade Teachers three modes of selection is contemplated (1) through direct recruitment or (2) recruitment by transfer from other Services (3) promotion from higher Elementary Grade Teacher. The petitioner is coming under the clause 2 i.e. the recruitment by transfer. In so far as the qualification is concerned the learned Counsel for the petitioner argued that in G.O.,Ms.No.63 Adhi Dravidar and Welfare Department dated 03.10.1997, it is stated that if secondary grade trained teacher in Schedule caste and Schedule Tribes community is not available, higher qualified teachers can be appointed and they can be given one month child psychology training through DIET and the said secondary grade teacher is not entitled to get any incentive increment for having higher qualifications or claim for the post of B.T., Assistant, as As a matter of right and the person concerned is liable to be transferred to any school. Thus, the SC/ST candidates are granted exemption for being appointed as Secondary Grade Teachers, even though they are not having Diploma in Teacher Training Course. In the Government Order, it is stated that in G.O.Ms.No.113 School Education Department dated 14.03.1997, the government granted relaxation of qualification in respect of SC/ST candidates. In so far as, the qualifications obtained through open university is concerned, the government issued GO.Ms.No.219 P&AR Department dated 26.08.1997 wherein it is stated that the open university degrees are to be treated as regular system degrees for the purpose of appointment in Government Service. Therefore, the learned Counsel

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for the petitioner argued that the petitioner is fully qualified for the post of Secondary Grade Teacher even though she obtained M.A., and B.Ed., degree through open university system.

6. The learned Counsel for the petitioner also produced the Judgment pronounced by the State Tamil Nadu Administrative Tribunal, in O.A.2226/1999 dated 11.02.2002 in which the State Administrative Tribunal directed to give appointment to teachers who have got qualified through open university system. The learned Government Advocate argued that only because of the petitioner''s promotion is not ratified by the Director of Adhi Dravidar Welfare Officer, reversion order is passed.

7. I have considered the rival submissions made by both the counsel or the petitioner and respondents. There is no dispute that the petitioner is working as watchmen and the service Rule G.O.Ms.No.405 Homes Department dated 02.02.1996 empowers the recruitment of secondary grade teacher by transfer form any other service. Hence recruitment by transfer given to the petitioner is only as per the service rules and the petitioner need not get any ratification for appointing the petitioner as Secondary Grade Teacher from the Director. Further the Government had already issued G.O.Ms.No.219 dated 26.08.1997 treating the open university decrees as valid degrees for the purpose of appointment and the higher qualifications persons of SC/ST can be appointed as Secondary Grade teacher, even though they are not having diploma in teacher training. The same is made clear in G.O.Ms.No.63 dated 03.10.1997. In view of the said Government Orders the Department rightly given appointment to the petitioner as secondary grade teacher. Therefore I am of the firm view that the reversion order passed by the 1st respondent dated 26.06.2002 is unsustainable and the said order is liable to be set aside and accordingly the impugned order in the W.P. is set aside and the W.P. is dismissed.

8. The petitioner is entitled to get appointment as Secondary Grade Teacher as per the order dated 28.05.2002. Since the petitioner is not working as Secondary Grade Teacher from 26.06.2002, she is not entitled to get salary as Secondary Grade Teacher. The respondents are directed to post the petitioner as Secondary Grade Teacher from 01.03.2006 and she shall be paid Secondary Grade scale of pay from the said date.

9. In the result, the writ petition is allowed in the above terms. No costs.

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