
(1990) 07 MAD CK 0109
In the Madras High Court
Case No : Writ Petition No. 318 of 1990

S. Dennie

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

Date of Decision : 17-07-1990

Acts Referred:

Citation : (1990) 07 MAD CK 0109

Hon'ble Judges : Kanakaraj, J

Bench : Single Bench

Advocate : R. Gandhi, for M/s N. Paul Vasantha Kumar, K. Ravichandra Baby and T.S. Sivaraman, for the Appellant; Pathimanathan, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

Kanakaraj, J.—The petitioner is a qualified candidate for the post of Secondary Grade Teacher. He has been appearing every year for the selection of Secondary Grade Teachers as per the notification of the 3rd respondent. He had been unsuccessful in every selection on some ground or other. This writ petition is concerned with the selection made for the academic year 1988-89. For about 170 vacancies of Secondary Grade Teachers in the Kanyakumari District, the 3rd respondent called for applications from the local Employment Exchanges. The petitioner was one among the 2000 candidates who were sponsored by the Employment Exchange. The petitioner was called for an interview on 31-8-1989. Unfortunately, in this selection also, the petitioner was not successful. This writ petition has been filed seeking writ of mandamus to direct the 3rd respondent to consider the selection of the petitioner as Secondary Grade Teacher and post him in any one of the Government Schools under his control. The complaint of the petitioner in this writ petition is that several candidates with lesser qualifications and experience have been selected, overlooking the claim of the petitioner. The petitioner attacks the manner in which the marks were awarded in the interview. In this connection, it is pertinent to point out that there are guidelines issued by

the Government in the matter of awarding marks at the interview. They are contained in G.O.Ms. No. 909 dated 27-5-1988. The relevant portion of the Government Order is extracted as follows:?

The government accordingly issue to the Chief Educational Officers for selecting Secondary Grade Teachers for Panchayat Union Elementary Schools & other middle schools for the following revised guidelines for allocation of marks during selection

1.

For Employment Exchanges Candidates registered in Employment Exchange and he remain unemployed....

For every year of weightage 1/2 (half) mark. This is to help the Teachers who are waiting for a long time.

2.

Previous experience....

2 marks for every year of Service.

3.

Proficiency.

Obtaining 60% marks and above 5 marks,for other 3 marks.

4.

For possessing higher Educational Qualification than minimum general Educational Qualifications.

For teachers teaching classes 1 to 5 only Secondary Grade Teachers should be selected with preference to women teacher.

For teaching classes VI. VII and VIII B.Ts. can be recommended who are willing to work in Secondary Grade Pay. But, preference be given to women candidate, marks can be given upto for higher qualification.

5.

Personality and hearing

... 5 marks.

6.

General knowledge for P.T. Teacher.

... 5 marks.

5 marks-School level certificate District level Certificate 10 marks State Level Certificates 15 marks.

National Level Certificates 20 marks."

The petitioner has cited the cases of several candidates, who according to him, could not have obtained more marks than him in the interview. This is because, the cases cited by the petitioner are persons who had obtained the teachers' training certificate just before the selection, whereas the petitioner had obtained the teachers' training certificate long earlier.

2. On notice of action, a counter affidavit has been filed on behalf of the respondents. The system of awarding marks is not disputed. But, the respondents have given the marks obtained by the petitioner according to the guidelines, noted above, as follows:?

1.

Marks for long waiting ... in Employment Exchange since 1984.

5 marks for 5 years.

2.

Previous experience: nil ...

No marks.

3.

Higher qualification (Only for B.Litt)

3 marks.

4.

Proficiency (no evidence)?

Nil (Secondary Grade Teacher Training Certificate Karnataka not produced. Hence no mark).

5.

Personality?

3 marks.

6.

General knowledge?

3 marks.

7.

Social Service(N.C.C) ...

2 marks.

Total ...

16 marks

3. So far as the two cases that are sought to be compared by the petitioner, the marks were awarded as follows:?

G. Sagilin Sugi

S. Susilal

1.

Marks for long waiting in the Employment Exchange. ...

1

1

2.

Previous Experience ...

Nil (No marks)

Nil (No marks)

3.

For Higher qualification (i.e.) for possession of higher qualifications viz. B.A., M.A. etc. 3 mark and for B.Ed. 2 marks..

Nil

Nil

4.

Proficiency ...

(No marks) 5

(No marks) 5

5.

Personality bearing ...

5

5

6.

General?Knowledge ?

8

8

7.

Social service/handicapped persons and other extra-curricular activities having distinctions in District State levels. ...

Nil (No marks)

Nil (No marks)

Total ?

19

19

4. Mr. R. Gandhi, the learned senior Counsel appearing for the petitioner says that with reference to item No. 4 relating to proficiency, the petitioner was not awarded any marks on the ground that the petitioner did not produce the secondary grade teachers' training certificate obtained by the petitioner from the Karnataka State, because the certificate was not produced at the time of the interview. It is now stated on behalf of the petitioner that the said certificate of the petitioner has since been evaluated on 25-1-1990 and it is certified that the same is equivalent to the Tamil Nadu certificates. The argument advanced on behalf of the petitioner is that the application for evaluation must relate back to the date of application. If this certificate had been taken into consideration, it is not disputed that the petitioner would have been entitled to the award of 3 marks, because he had obtained below 60% of the marks. On the other hand, the learned Government Pleader argues that marks can be awarded only on the basis of the certificates produced at the interview. The fact that the petitioner's certificate was subsequently evaluated, cannot invalidate the marks as awarded on the date of interview. The learned Counsel for the petitioner also assails the award of marks under the head of higher qualification. It is the case of the petitioner that he being a pulavar candidate, the two marks awardable to B.Ed., candidates should be awarded to him. It is not disputed that three marks were awarded on the ground that the petitioner is a B. Litt. candidate. I am not inclined to agree with the learned counsel for the petitioner that the two more marks should have been awarded under this head because the petitioner is a Pulavar trained candidate. I am however inclined to agree with the learned counsel for the petitioner that marks under the head of proficiency should have been awarded because the certificate of the petitioner was under evaluation on the date of the interview. As already stated, the petitioner had applied for evaluation as early as on 26-12-1988 and it is not his fault that on the date of the interview, he could not produce the certificate duly evaluated. Having regard to the fact that the petitioner has been knocking at the doors of the 3rd respondent right from the year 1984, the court cannot ignore the grievance of the petitioner, especially when candidates who had passed the examination in 1988 were being appointed. The other argument of the learned Counsel for the

petitioner that the marks awarded to the petitioner under the heads of general knowledge and personality are law compared to the marks awarded to the other two candidates, cannot be entertained by this Court. It is not certainly open to the Court to interfere with the award of marks in the interview. The Court does not have the necessary materials to come to the conclusion that the award of marks under these heads was arbitrary.

5. When motion of notice was ordered in this Writ Petition, Srinivasan, J. passed an order that any appointment by the 3rd respondent, filling up the existing vacancies, shall be subject to the result of the writ petition. I am inclined to direct the 3rd respondent to take note of the evaluation of the teachers' training certificate obtained by the petitioner from the State of Karnataka and award marks for the same and on that basis to consider whether the petitioners will be eligible for selection. Accordingly, this Writ Petition is allowed to the extent that there will be a direction to the 3 respondent to reconsider the case of the petitioner after awarding marks for the teachers' training certificate and then consider whether he is eligible for selection. If he is eligible for selection on the basis of the award of marks under the head of proficiency, he will be given a post, having regard to the order of Srinivasan, J. dated 15-3-1990. The 3rd respondent shall pass orders as indicated above within two months from the date of receipt of this order. There will be no order as to costs.