

(2014) 02 MAD CK 0220

In the Madras High Court

Case No : Writ Petition No. 11963 of 2012 and M.P. No. 1 of 2012

Santha

APPELLANT

Vs

The Principal Secretary/State Project Director and The Chief
Educational Officer

RESPONDENT

Date of Decision : 17-02-2014

Acts Referred:

Citation : (2014) 02 MAD CK 0220

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Advocate : C. Prabakaran, for the Appellant; S. Navaneetham A.G.P., for the Respondent

Final Decision : Disposed Off

Judgement

M. Venugopal, J.—The Petitioner has preferred the instant Writ of Mandamus praying for issuance of an order by this Court in directing the Second Respondent to consider her for the post of "Tailoring-Sewing Teacher" based on the interview participated by her on 29.12.2011 conducted by the Second Respondent and to pass other or further orders as this Court may deem fit and proper. According to the Petitioner, after completion of her School Education studies, she joined the Tailoring course and appeared for Government Technical Examination for Embroidery, Needle work and Dress Making during the month of November 1983. She secured second class in the said examination. She was issued with the certificate on 10.05.1984 by the Additional Secretary to Tamil Nadu Government, Government Examination (Education).

2. She had also underwent the course of Sewing and appeared for all the necessary Technical Examinations and secured second class to that effect. Also, she was issued with the Technical Teacher Certificate on 18.12.1985 by the Department of Government Examination (Education) vide Serial No. 22460A. Subsequently, she completed her Post Graduation course of Master of Arts in History from the Annamalai University during May 2001.

3. After completion of all studies including the Technical Education, she registered her name with the District Employment Office for all her courses, specifically for Tailoring "Sewing" and started to serve as Tailoring Teacher around seven years and discharge her duties sincerely and reliably in an effective manner. In the meanwhile, the Government of Tamil Nadu passed G.O. Ms. No. 177, School Education (C2) Department dated 11.11.2011, directing the First Respondent to fill up the post under the scheme of "Sarva Shiksha Abhiyan" with the approval of supplementary Annual Work Plan and Budget 2010-2011 in the context of "Right of Children to Free and Compulsory Education (RTE) Provisions. As a matter of fact, 16549 Part Time Instructors were sanctioned to Tamil Nadu. Out of these posts, 5253 Part Time Instructor posts for "Art Education"; 5392 posts for "Health and Physical Education" and 5904 posts for "Work Education" were sanctioned for Standards VI to VIII in Government Schools, where admission of Children is more than one hundred.

4. The office of the State Government constituted the Committee of the Second Respondent for appointing the teachers and implementing the Government Order in which Sewing is also one of the post in respect of Work Education. She made the application pursuant to the Government Order to the Second Respondent in a prescribed form with all necessary particulars. The Second Respondent called her for interview on 29.12.2011 at Dharmapuri Boys Higher Secondary School and she also participated in the said interview with all necessary documents as required by the Second Respondent. She was eagerly waiting for the appointment order which is the only source for her livelihood as well as her ambition.

5. To her shock and surprise, the Second Respondent appointed several persons for the post of Sewing (Tailoring) those who are junior and possessing lesser qualification than her. As a matter of fact, the Second Respondent failed to note that the Government Order referred above as stated supra, preference would be given to the highly qualified candidates in respective trades and fields such as Bachelor Degrees where diplomas are also considered. Apart from that, subject to merit being equal, local area candidates and women candidate would be given priority in the Selection. 10% of candidates may also be selected and kept as waiting list for the period of one year or till next selection whichever is earlier. More importantly, the selection list should be displayed in the CEO's office notice board and Education Department web site. The Second Respondent had not followed any of the mandatory procedure mentioned above said manner, in which the interview conducted by the Second Respondent was in violation of Principles of Natural Justice and also against transparency in recruitment of teachers which affects the fundamental rights and equality guaranteed in the Constitution. Even today, several post are vacant for the post of Tailoring Teacher and as such, she may be considered as well equipped and deserving candidates. Also, she projected an application to the Second Respondent and the District Employment Officer to furnish the seniority list as well as the details of appointment for the post of Tailoring pursuant to the Government Order as stated supra. However,

the authorities had not furnished the same. The silence of the authority would reveal that they had not acted in accordance with law for appointment of teachers. Hence, the Petitioner has filed the present Writ Petition.

6. According to the Learned Additional Government Pleader, the Petitioner was one of the candidates who attended interview for appointment as Part-time Instructor to Government Schools for Standard VI to VIII under Sarva Shiksha Abhiyan Scheme during the year 2012-2013. By means of G.O. Ms. No. 177, School Education (C2), Department dated 11.11.2011, the Government of Tamil Nadu had sanctioned Part Time Instructors posts for teaching the children Art, Health and Physical and Work Education in Standards VI to VIII in Government Higher Secondary/High Schools and Upper Primary Schools, under Sarva Shiksha Abhiyan, in the context of Right of Children to Free and Compulsory Education (RTE) provisions. The Government had issued instructions to fill up the Part-Time Instructor posts calling for the applications from the qualified candidates through Dailies and Media by making wide publicity and also from Employment Exchange. The Government has fixed the salary as Rs. 5000/- per month. The Government has ordered that the selection of candidates was to be made by conducting interview by the District Level Committee. The Committee consisted of the following personnel's:

1. The Chief Educational Officer as Chair person
2. The Chief Educational Officer (SSA) as Member Secretary
3. The District Elementary Educational Officer, Dharmapuri as Member, and
4. (i) District level officer from the District in Health and Physical Education-Specialist concerned for part Time Teacher being selected.
4. (ii) District level Specialist in Art Education-Specialist in concurrence for Part Time Teacher being selected and
- 4 (iii) District level Specialist for respective work Education-Specialist concerned for Part Time teacher being selected in Music, (Vocal and Instrumental) Sewing, Horticulture, Life Skill & Communication skill, Masonry & Computer Application.

7. The Learned Additional Government Pleader brings it to the notice of this Court that Chief Educational Officer, Dharmapuri is the "Appointing Authority" in respect of Government High/Higher Secondary School and the District Elementary Officer is the appointing authority in respect of Upper Primary Schools in terms of G.O. Ms. No. 177, School Education, Department dated 11.11.2011. The Government had also ordered that preference was to be given to the highly qualified candidates in respective trades and fields such as degree where diplomas were also considered and subject to merit being equal, local area candidate and women candidate shall be given priority in the selection and based on the above said instructions appointment were made in Dharmapuri District.

8. The Prime contention of the Learned Additional Government Pleader appearing

for the Respondents is that Petitioner had not acquired any higher technical education such as "Degree or Diploma in Tailoring" more than the essential qualification. However, she had stated that she was working as Special Trainee for Tailoring under the National Child Labour Project from 19.01.2006. She had not produced "No Objection Certificate" issued by the authorities of National Child Labour Project for attending the interview for appointment of Part Time Instructors in School Education Department. Though she attended the interview before the Selection Committee, she was not considered for appointment by the Committee for the only reason that she has already been serving as Special Trainee in the National Child Labour Project. The list of candidates in Tailoring was displayed in the notice board in the office of Chief Educational Officer, Dharmapuri before appointment orders were issued. There was no violation of appointment procedures made in regard to the appointment of Part Time Instructors.

9. Continuing further, the Learned Additional Government Pleader appearing for the Respondents submits that Petitioner acquired M.A. Degree (general scheme) and also acquired Dress Making Technical Educational qualification with Technical Teacher Certificate in Needle Work and as such, she is eligible for appointment for the post of Part Time Instructor in Tailoring subject. Moreover, she was not considered by the selection committee for appointment as Part Time Instructor in Tailoring, since she was already working as Special Trainee for Tailoring in the National Child Labour Project.

10. During the last leg of arguments, the Learned Additional Government Pleader fairly contends that if the Petitioner produces the "No Objection Certificate" from the competent Authority of National Child Labour Project, then her request for appointment would be considered by the Second Respondent.

11. At this stage, the Learned counsel for the Petitioner informs this Court that the Petitioner would produce the "No Objection Certificate" from the competent authority of National Child Labour Project and when she produces the same, her case for appointment in the School Education Department as Part Time Instructor in Tailoring subject may favourably be considered by the authorities concerned.

12. As far as the present case is concerned, the Petitioner is fully qualified to apply for the post of Sewing (Tailoring) Teacher. Since she had not produced the "No Objection Certificate" from the competent authority of National Child Labour Project, her case for appointment as Part Time Instructor for Tailoring subject was not considered by the School Education Departmental authorities. Inasmuch as the Petitioner is fully qualified to be considered for appointment in the School Education Department as Part Time Teacher in Tailoring and also on behalf of the Petitioner, it is submitted before this Court that the Petitioner would produce "No Objection Certificate" from the competent authority of National Child Labour Project within a period of two weeks from the date of receipt of a copy of this order, this Court based on Equity, Fair Play, Good Conscience and even as a matter of prudence, directs the Petitioner to produce "No Objection Certificate"

from the competent authority of National Child Labour project within a period of two weeks from the date of receipt of a copy of this order and on production of such certificate, the Respondents are directed to consider the case of the Petitioner for appointment as Part Time Instructor in Tailoring subject within a period of four weeks thereafter in the manner known to law and in accordance with law. It is made clear if the Petitioner is found eligible for the post of Part Time Instructor for Tailoring by the authorities concerned, she may be placed at the appropriate level in the seniority and necessary orders may be passed to that effect. With the aforesaid directions, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is also closed. No costs.