

**(2014) 03 MAD CK 0148**

**In the Madras High Court**

**Case No :** Writ Appeal No. 1407 of 2013 and M.P. No. 1 of 2013

The State of Tamil Nadu and The District Elementary  
Educational Officer, Namakkal

**APPELLANT**

**Vs**

A. Rajeswari

**RESPONDENT**

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**Date of Decision :** 13-03-2014

**Acts Referred:**

**Citation :** (2014) LabIC 3937

**Hon'ble Judges :** N. Paul Vasanthakumar, J;M. Sathyanarayanan, J

**Bench :** Division Bench

**Advocate :** A. Sri Jayanthi, Spl. Govt. Pleader, for the Appellant; A.R. Nixon, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

N. Paul Vasanthakumar, J.—The present writ appeal has been filed against the order of the learned Single Judge of this Court dated 29.11.2011 made in W.P. No. 5855 of 2007 (O.A. No. 6274 of 2002), wherein, the order of the Government issued in Letter No. 24666/U1/2002-1, School Education Department, dated 23.8.2002 was challenged, with a further relief to direct the department to appoint the respondent herein either as Higher Grade Teacher or Secondary Grade Teacher. The learned Single Judge allowed the said writ petition, with a direction to the third appellant herein to appoint the respondent as Secondary Grade Teacher to handle classes 1 and 2 in terms of G.O.Ms. No. 172, School Education Department, dated 31.10.2002, within a period of six weeks, with a further direction to count the non-employment period for fixation of pay and terminal benefits, without back wages. The said order is under challenge in the present writ appeal.

2. The following contentions were raised by the respondent before the learned Single Judge viz., the respondent has passed Higher Secondary Examination (Plus 2) with Secondary Grade Teacher Training course as a Vocational subject and she was appointed as Secondary Grade Teacher on 18.11.1988 and without

notice, she was terminated from service by an order dated 17.1.1989. After receiving the termination order, the respondent made representations to the department and no action being taken by the department, she challenged the order of termination by filing O.A. No. 3687 of 2002 before the Tamil Nadu Administrative Tribunal and the Tribunal, by an order dated 1.7.2002, directed the Government to pass orders on the respondent's appeal dated 14.1.2002 within three months. Thereafter, the respondent's appeal was rejected by the first appellant, by an order dated 23.8.2002, stating that the respondent was not qualified to hold the post of either Higher Grade Teacher or Secondary Grade Teacher. The said order was challenged by the respondent by filing O.A. No. 6274 of 2002 before the State Administrative Tribunal and after abolition of the Tribunal, the case was transferred to the file of this Court and re-numbered as W.P. No. 5855 of 2007 and the said writ petition was allowed on 29.11.2011 as stated supra.

3. The State Government has filed the present appeal by contending that the respondent was not qualified for being appointed as either Higher Grade Teacher or Secondary Grade Teacher. It has been further contended that for appointment to the post of Higher Grade Teacher or Secondary Grade Teacher, one must have passed Plus 2 examination and Diploma in Teacher Education - two years course and the respondent having passed Plus 2 examination in Vocational Teacher Training Course, is not entitled to be appointed as Higher Grade Teacher or Secondary Grade Teacher.

4. Learned counsel appearing for the respondent submitted that the Government issued G.O.Ms. No. 1431, School Education Department, dated 16.9.1986 and ordered to treat the Plus 2 certificate, issued by the Directorate of Government Examination to the students who were pursuing Secondary Grade Teacher Training Course (Pre-School subject) as a Vocational subject in Higher Secondary School, as equivalent qualification for appointment as Higher Grade Teacher. The department also appointed similar certificate holders namely Mallika and K. Kalaiselvi as Higher Grade Teachers on 13.11.1988 and 3.7.1988 respectively. G.O.Ms. No. 1431, School Education Department, dated 16.9.1986 reads as follows:-

Government Order (MS) No. 1431, Education (Hrsec. 1) department, dated 16th September, 1986.

Subject: Higher Secondary Education Vocation Course Secondary School Training School passed certificate Notify as eligible to the appointment of Higher Grade Teacher order passed.

Ref: The proceedings of the Director of School Education in Ka. No. 320954/W.5/85, dated 22.7.1986.

Order:-

As per G.O.Ms. No. 1078, Education, dated 9.9.1985, the "Secondary School

Teacher Training" course was introduced as a vocational subject in Higher Secondary School. This subject syllabus was recognized under G.O.Ms. No. 64, Education dated 21.1.1986. The syllabus followed in Secondary School Teacher Training School and the syllabus determined for the vocational course of "Secondary School Teacher Training" introduced in Higher Secondary School are being same and the Director of School Education recommended to determine the certificate to be issued to the candidate who have completed +2 with the vocational subject of Secondary School Teacher Training as minimum eligibility for appointment of Higher Grade Teachers.

2. Considering the recommendation of the Director of School Education, the certificate issued by the Director of Government Examination to the candidate who has studied the Secondary School Teacher Training as vocational subject in Higher Secondary is hereby ordered to be the eligible certificate for appointment of Secondary School Teachers.

(As per order of Governor)

T. thu. Kanthar Raj

Commissioner and Government Secretary /True copy/

Ma.Ku.O.Mu. 120003/86

The Director of Regional Development Office, Chennai-108, dated 24.10.1986.

The said position has been further made clear in G.O.Ms. No. 172, School Education Department dated 31.10.2002. The relevant portion of the said G.O. reads as follows:

2. ... There are nearly 500 Teachers, that too, Female Teachers like these teachers. The National Teachers Education Authority formed from 1.7.1995 in the National level has also stated that the Teachers who have trained in Pre-primary Teacher Training Institute can be appointed as Teachers for the children aged 4-6.

3. At this stage, amending the G.O.Ms. No. 447, Education dated 16.7.1996, it is ordered that those who completed in Nursery, Montessori, Kinder Garten Course or Pre-School Teacher Training Course or Pre-basic Teacher Training Course (other than those who taken the subject of "pre-School Teacher" in Vocational course in Higher Secondary Schools) in Pre-Primary Teacher Training Institute or Pre-basic Teacher Training Institute are eligible to be appointed as Junior Teachers in Elementary Schools in the time scale of pay of Rs. 3050-75-3950-80-1500. After appointment, if these persons want to get appointment as Secondary Grade Teachers, they can be permitted to write the Examination for Diploma in Teacher Training Education as Private Study candidates. This order is to make the said teachers eligible to be Secondary Grade Teachers only and their appointment as Secondary Grade Teachers is subject to the consolidated seniority maintained by the Employment Exchange. No additional posts will be created. However, the permitted posts of Secondary

Grade Teachers for the Classes 1 and 2 will be considered as Junior Teachers posts (subject to the permission of the Directors concerned) so as to enable the Teacher to get appointment and after getting the qualification for the post of Secondary Grade Teachers, the posts of Junior Teachers will be considered as posts of Secondary Grade Teachers.

Learned counsel for the respondent further submitted that the said issue was already considered by this Court in W.P. No. 43313 of 2006 dated 25.3.2009 and this Court allowed similar writ petitions. Therefore, the petitioner is entitled for being appointed as Secondary Grade Teacher and she can handle classes 1 and 2.

5. We have considered the rival submissions made on either side and also perused the earlier order of the Tribunal as well as the Government Orders issued in G.O.Ms. No. 1431, School Education Department dated 16.9.1986 and G.O.Ms. No. 172, School Education Department dated 31.10.2002.

6. As per the said Government Orders, the respondent's qualification i.e., Plus 2 certificate issued by the Directorate of Government Examination for pursuing Pre-School Training Course as a Vocational subject, is eligible to be appointed as Higher Grade Teacher to handle classes in standards 1 and 2. The earlier order passed by this Court in W.P. No. 43313 of 2006 dated 25.3.2009 was also implemented by the appellants and filing of appeal is not stated in the grounds of appeal. Hence, we are of the view that the decision rendered by the learned Single Judge of this Court is just and proper. The learned Single Judge has also declined the back wages and moulded the relief. For the foregoing reasons, we are of the view that the present writ appeal is liable to be dismissed and accordingly, dismissed. The appellants are directed to implement the order of the learned Single Judge made in W.P. No. 5855 of 2007 dated 29.11.2011 within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.