

(2002) 06 MAD CK 0058

In the Madras High Court

Case No : Writ Petition No. 20637 of 2000 and W.M.P. No's. 30018 and 30019 of 2000

V. Krishnaveni

APPELLANT

Vs

Director of Elementary Education, Chennai, District
Elementary Educational Officer and Secretary, N.K.G. Middle
School

RESPONDENT

Date of Decision : 14-06-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 06 MAD CK 0058

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : C. Selvaraju, for the Appellant; S.P. Prabhakaran, Special
Government Pleader, for the Respondent

Judgement

P.K. Misra, J.—Heard the learned counsels appearing for the parties. Though the matter is listed for considering the question of direction,

on consent of the counsels appearing, writ petition is taken up for disposal.

2. The question in this writ petition relates to approval of the petitioner as Secondary Grade Assistant. This post is reserved for Scheduled Caste.

There is no dispute that the petitioner belongs to Scheduled Caste. Educational qualification required for such Secondary Grade Assistant is

Diploma in Teacher Education or Secondary Grade Teacher Training Certificate. Petitioner is a Graduate with B.Ed., which admittedly is a higher

qualification. Since no candidate belonging to Scheduled Caste having minimum qualification was available, on the basis of Non Availability

Certificate issued by the Employment Exchange, an advertisement was made and the petitioner was selected. Subsequently the petitioner was

appointed on 20.4.1998.

3. In the present case, the Government has refused to accord approval on the ground that since G.O was issued on 15.10.1999, it will not apply

to the case of the petitioner, who was appointed on 20.4.1998. In my considered opinion this is only a technical objection raised by the

Government. Even though G.O.Ms.No.301 was issued on 15.10.1999, such instruction was issued taking into account the vacancies of the years

1997 and 1998 and therefore, any person appointed in 1998 and otherwise qualified, should not be disapproved on this technical ground.

4. The other ground for not according the approval is that the appointment had been made without resorting to employment exchange. This does

not appear to be correct. It is apparent that since the candidate belonging to Scheduled Caste having minimum qualification was not available, the

Employment Exchange has issued Non-Availability Certificate and only thereafter advertisement was issued seeking for Scheduled Caste

candidate possessing higher qualification.

5. In the counter it has been stated that Non Availability Certificate was valid upto 6.4.1998, whereas the appointment was made on 20.4.1998.

This again appears to be a highly technical stand taken in the counter. It is evident that selection process had been started much before 6.4.1998

and only after completing all formalities and after selection, appointment was made on 20.4.1998.

6. Since the grounds on which the prayer for approval has been refused are not valid, I quash the order passed by the second respondent in his

proceedings Na.Ka.406/Aa2/98 dated 19.9.2000 and I direct the Government to reconsider the matter in the light of the observations already

made and take steps to grant approval within a period of two months from the date of communication of the order. The writ petition is accordingly

disposed of without any order as to costs. Consequently, W.M.P.Nos.30018 & 30019 of 2000 are closed.