

N.Vanitha Vs. The District Elementary Educational officer,

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SooperKanoon Citation : sooperkanoon.com/49114

Court : Chennai

Decided On : Mar-17-2015

Judge : The Honourable Ms.Justice v.M.Velumani

Appellant : N.Vanitha

Respondent : The District Elementary Educational officer,

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED :

17. 03.2015 CORAM THE HONOURABLE MS.JUSTICE V.M.VELUMANI
W.P.(MD) No.10555 of 2007 & M.P.(MD) No.1 of 2007 N.Vanitha .. Petitioner Vs.
The District Elementary Educational Officer, Karur District, Karur. .. Respondent
Writ Petition filed under Article 226 of the Constitution of India, seeking for
issuance of a Writ of Mandamus, directing the respondent to fix the seniority with
effect from 03.01.2002 in the post of Secondary Grade Teacher with all
consequent and attendant benefits. !For Petitioner :Mr.N.Shanmuga Selvam For
Respondent :Mr.T.S.Mohamed Mohideen Addl. Government Pleader :

ORDER

This Writ Petition has been filed by the petitioner to direct the respondent to fix the seniority with effect from 03.01.2002 in the post of Secondary Grade Teacher with all consequent and attendant benefits.

2. The petitioner completed Diploma in Teacher Education and registered the same with the District Employment Exchange, Karur, on 12.10.1999. She was a native of Karur District. The appointment was based on the seniority as in the District Level and the candidate should belong to the native of Karur District. The names of eligible candidates for appointment as Secondary Grade Teachers were called for. The District Employment Officer, Karur, refused to sponsor the petitioner's name on the ground that she is not belonged to Karur District. This was done based on the report of the District Collector, dated 24.12.2001. The petitioner filed W.P.No.1305 of 2002 challenging the report of the District Collector, Karur, dated 24.12.2001.

3. This Court by order dated 25.01.2002, made in W.P.M.P.Nos.1821 and 1822 of 2002 in W.P.No.1305 of 2002, directed the respondents therein to keep one post vacant, if available. Pending writ petition, the District Collector, by letter dated 20.04.2002, gave a report stating that the petitioner belongs to Karur District. Based on the report of the District Collector, Karur, dated 20.04.2002, this Court by order dated 22.04.2002, disposed of the said writ petition. The relevant portion of the said order reads as under: "4. In the light of the stand taken by the fifth respondent and of the fact that the petitioner is a native of Karur District and also of the fact that one post of Secondary Grade Teacher in Karur District is directed to be kept vacant by order dated 25.01.2002, the third respondent is directed to sponsor the name of the petitioner for appointment to the post of Secondary Grade Teacher in Karur District in the available post."

4. As per the orders of this Court, the District Employment Officer sponsored the petitioner's name and she was appointed as Secondary Grade Teacher on 01.11.2003 in the Panchayat Union School, Alathur. The petitioner joined on 05.11.2003 in the said School. The respondent appointed all other candidates, who were registered along with the petitioner as Secondary Grade Teacher on 03.01.2002 itself.

5. Some of the persons, who had registered in the Employment Exchange subsequent to the petitioner were also not sponsored on the ground that they do not belong to Karur District. They filed a batch of writ petitions before this Court in

W.P.Nos.7, 367, 368, 369 & 402 of 2002 etc. This Court directed the District Collector to verify the nativity of the candidates. On verification by the District Collector, they were found to be the residents of Karur District and were appointed as Secondary Grade Teachers in various Schools on 30.04.2004 subsequent to the petitioner. They filed Contempt Petitions. The respondent, by order dated 08.02.2005, re-fixed the seniority to them as on 03.01.2002. They are juniors to the petitioner. The petitioner's seniority was not fixed from 03.01.2002. Therefore, she made representations to the respondent. No orders were passed on the representations. Hence, the petitioner has filed the present writ petition for the relief stated supra.

6. The respondent filed counter affidavit stating that the petitioner's name was not originally sponsored on the ground that she did not belong to Karur District. The respondent can give appointment only when a candidate sponsored by the Employment Exchange. After the litigation, the petitioner was appointed as Secondary Grade Teacher on 01.11.2003. Similarly placed persons obtained an order from this Court, to fix their seniority w.e.f. 03.01.2002. The petitioner did not obtain any order from this Court. Therefore, he prayed for dismissal of the writ petition.

7. I have perused the materials on record and heard the learned counsel appearing for the parties and considered the arguments put forth by them.

8. From the pleadings and materials, it is seen that the petitioner's name was not sponsored for appointment as Secondary Grade Teacher on the ground that she did not belong to Karur District. This Court by order dated 25.01.2002, in W.P.M.P.Nos.1821 and 1822 of 2002 in W.P.No.1305 of 2002, directed the respondents therein to keep one post vacant and in W.P.No.1305 of 2002 by order, dated 22.04.2002, directed the respondent therein to give appointment to the petitioner in the available post. Based on the orders of this Court, the respondent issued appointment order, dated 01.11.2003 to the petitioner and the petitioner joined the said post on 05.11.2003. Some other persons, who are juniors to the petitioner were also denied appointment on the same ground. After they have filed writ petitions and subsequently, contempt petitions, the respondent fixed

their seniority from 03.01.2002.

9. As per order dated 27.01.2006, made in Contempt Petition Nos.1012 to 1020 of 2003, the respondent by G.O.(Ms)No.143, School Education (S2) Department, dated 25.06.2007, fixed the seniority of persons, who are juniors to the petitioner from 03.01.2002 and granted notional increment from 03.01.2002 and monetary benefits from the date of their joining. Those persons are juniors to the petitioner in the employment registration as well as the date of appointment. Therefore, the petitioner is also entitled to the very same benefit. In addition to this, this Court by order dated 25.01.2002, in W.P.M.P.Nos.1821 and 1822 of 2002 in W.P.No.1305 of 2002, directed the respondents therein to keep one post vacant. In the circumstances, the contention of the respondent that the petitioner did not obtain any order from this Court to fix her seniority from 03.01.2002, for the purpose of promotion and therefore, she is not entitled to the order dated 27.01.2006, passed by this Court in Contempt Petition Nos.1012 to 1020 of 2003, is untenable.

10. Once the seniority of similarly placed persons has been fixed as 03.01.2002 as per the orders passed by this Court, dated 27.01.2006 in Contempt Petition Nos.1012 to 1020 of 2003, the petitioner is also entitled to the very same benefit. A post was kept vacant by order, dated 25.01.2002, in W.P.M.P.Nos.1821 and 1822 of 2002 in W.P.No.1305 of 2002. Further this Court directed the respondents therein to appoint the petitioner in the available post. Therefore, the petitioner is deemed to be appointed w.e.f. 03.01.2002. The respondent is directed to fix the seniority of petitioner from 03.01.2002 and grant notional increment from 03.01.2002 and monetary benefits from the date of joining i.e., 05.11.2003. Further, in number of cases, this Court has directed the concerned authorities to fix the seniority of Secondary Grade Teacher w.e.f. 03.01.2002. In view of the earlier order, the petitioner is also entitled to the same benefit.

11. This writ petition is accordingly disposed of. No costs. Consequently, connected miscellaneous petition is closed. Index :Yes 17.03.2015 Internet :Yes smn2 V.M.VELUMANI,J.

smn2 To The District Elementary Educational Officer, Karur District, Karur.
W.P.(MD) No.10555 of 2007 & M.P.(MD) No.1 of 2007 17.03.2015

