

B.Lakshmipathi Naidu

Vs

Distt. Educational Officer and others

Civil Appeal No. 2944 of 1992

(L. M. Sharma, S. Mohan, N. Venkatachala JJ)

11.08.1992

JUDGEMENT

L.M.SHARMA, J

1. Heard the learned Counsel for the parties. Special leave is granted.

2. The appellant is a school teacher claiming appointment as Head Master. He has been working as a Telugu Pandit since 1975 in the school concerned. He got the degrees of Master of Arts in Telugu in 1978 and Bachelor of Education in 1983. The post of Head Master fell vacant on 1-11-1986. According to the impugned judgment of the learned single Judge of the Madras High Court, he has been held to be ineligible for the post. The decision was confirmed on appeal by a short order by a Division Bench which is under challenge in the present appeal.

3. The main ground for holding that the appellant was not qualified for the post of Head Master in 1986 is based upon the minimum qualification fixed in this regard by the Special Rules for the Tamil Nadu Higher Secondary Educational Service in its annexure by requiring the candidate to have:-

"(iii) Experience for a period of not less than ten years as B.T. Assistant or Pandit in a Secondary School/ Training School/ Higher Secondary School, after obtaining a teaching degree, recognised by the Director of School Education;"

4. According to the respondent, the above condition requires to have ten years' experience as a Pandit, after obtaining a teaching degree, recognised by the Director of School Education. It is said that since the appellant acquired the degree only in 1983, his experience in 1986 was of about three years. The plea of the appellant that this period has to be 'calculated from 1975 when he was appointed as Telugu Pandit has been rejected departmentally as well as by the High Court.

5. The learned counsel for the appellant has contended that in view of several other provisions in the Rules as also Instructions issued by the State, the experience of a Language Pandit has to be equated with that of a trained graduate and on this basis, at least two judgments were delivered by the Madras High Court in P. Subbannan v. The Director of School Education and another, Writ Petition No. 4470 of 1982 dated 21-2-1983 and in P. S. Chandrasekhar v. The Director of School Education, Madras-6 and others, Writ Petition No. 7367 of 1983 dated 18-10-1985. We have examined the judgment in P. Subbannan's case the High Court had to deal with the claim of Tamil Pandit and in

Chandrasekhar's case that of a Hindi Pandit, but since the same considerations arise in regard to any language Pandit the decisions are certainly in favour of the appellant. A writ appeal was filed against the judgment in P. Subbannan's case, which along with another writ appeal was withdrawn by the State as is evident by the order of the Division Bench in Writ Appeals Nos. 950 and 951 of 1983 vide Annexure-J. The learned counsel is, therefore, right in contending that the two judgments interpreting the rule in favour of Language Pandits prevailed in the State for a considerably long period. It should further be presumed that the said principle has become settled and must have been applied in the other schools of the State. In view of this consideration, we hold that the High Court, in the present case, should not have departed from the settled position and should have followed the two decisions mentioned above.

6. The learned single Judge has also mentioned another ground for rejecting the appellant's case. It has been held that for the promotion to the post of Head Master it was necessary that the claimant had passed Accounts Test, and since the appellant was lacking in this qualification he was not eligible. The learned counsel for the appellant has drawn our attention to the G.O.Ms. No. 120 dated 28-4-1981 showing that this qualification was not to be insisted upon until further orders for appointment of Head Master of aided higher secondary schools. It is averred on behalf of the appellant and not denied on behalf of any of the respondents that the school in question is an aided higher secondary school and that no further orders to the contrary have been passed so far. The second ground put against the appellant in the impugned judgment also must be rejected.

7. For the reasons indicated above, we set aside the judgments of the High Court, rendered by the learned single Judge and the Division Bench. We further hold that the appellant must be treated to be fully qualified for the post of the Head Master. Hence his case will be taken into consideration before taking a final decision in the question of the appointment of the Head -Master in the concerned school. The appeal is accordingly allowed, but in the circumstances, without costs.

Appeal allowed.

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