

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.A.No.2560 of 2012

K.Sundaramurthy

... Appellant/Petitioner

Vs.

1. The Member Secretary,
Teachers Recruitment Board,
7th Floor, E.V.K.Sampath Maligai,
College Road,
Chennai - 600 006,
2. The District Employment Officer,
Employment Exchange,
Madurai District,
3. The Director of School Education,
Chennai - 600 006,
4. The Director,
Department of Most Backward Classes
and Denotified Communities,
Chepauk,
Chennai - 600 005,
5. State of Tamil Nadu
rep.by its Secretary to Government,
Education Department,
Fort St.George,
Chennai - 600 009.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the Order dated 18.1.2012 made in W.P.No.25062 of 2006 on the file of this Court.

W.P.No.25062 of 2006 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to quash the order dated 04.04.1997 with consequential relief of Mandamus, to direct the respondents to appoint the Petitioner as B.T.Assistant(Science) in the vacancy which is likely to be filled up on the first week of June in the Kallar Reclamation School, Madurai District or in any other existing vacancy or in any future vacancy that may arise.

For Petitioner : Mr.R.Ram Ganeshan
For Respondents : Mr.R.Ravichandran,
2 to 5 Additional Government Pleader

JUDGMENT

Judgment of the Court was made by R.SUDHAKAR,J.)

This appeal is filed against the order dated 18.1.2012 passed by the learned single Judge in W.P.No.25062 of 2006, in and by which the application in O.A.No.3802 of 1997 originally filed by the appellant herein before the Tamil Nadu Administrative Tribunal and transferred to this Court on abolition of the Tribunal and numbered as writ petition, challenging the proceedings dated 4.4.1997 of the Chairman of Teachers Recruitment Board and seeking a direction to the respondents to appoint the appellant herein as B.T.Assistant (Science), was dismissed,

2. Learned counsel appearing for the appellant submits that the appellant had acquired 4th rank in M.Sc., (Zoology) in April, 1983 in Madurai Kamaraj University and the appellant had an experience of 7 years in Government aided school. However, when the appellant applied in pursuance of the advertisement issued by the State Government, he was not considered for appointment as B.T.Assistant (Science) by placing him in the waiting list. Though subsequently vacancies had arisen, the representation of the appellant to consider him for appointment was not considered by the first respondent.

3. Learned Additional Government Pleader appearing for the respondents submitted that the Teachers Recruitment Board issued provisional selection to the 8 eligible candidates by strictly following the rules of reservation in the order of merit and communal rotation and the appellant has not fulfilled the selection criteria. No person junior to the appellant in the waiting list was appointed. There is no vacancy available to accommodate the appellant, as sufficient candidates in the merit list are accommodated in the existing vacancies. The interim direction issued by the Administrative Tribunal to the respondents to keep one post vacant for a period of two weeks cannot come in aid of the appellant when the writ petition itself was dismissed on merits. Any future selection would be considered calling fresh notification only and the appellant cannot claim to consider him in the future vacancies.

4. We have perused the order of the learned single Judge, wherein it was rightly held that no person junior to the appellant in the waiting list was appointed and the selected or

waiting list candidates can only seek appointment in case any junior in merit is appointed by ignoring the claim of the senior, or in exceptional circumstances where the action of respondents in denying appointment is arbitrary or actuated by malafide and also placed reliance on a decision of the Supreme Court in Bihar State Electricity Board Vs. Suresh Prasad and others, ((2004) 1 SCT 904).

5. This Court does not find any illegality in the order passed by the learned single Judge and there is no merit in the appeal. The appellant is now aged 55 years and he has also no right of appointment, as no junior to the appellant has been appointed and as on date, there is no vacancy. Therefore, the writ appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Member Secretary,
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7th Floor, E.V.K.Sampath Maligai,
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3. The Director of School Education,
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4. The Director,
Department of Most Backward Classes
and Denotified Communities,
Chepauk, Chennai - 600 005
5. The Secretary to Government,
Education Department,
State of Tamil Nadu
Fort St.George, Chennai - 600 009.

+1cc to the Government Pleader, S.R.No.10411

W.A.NO.2560 OF 2012

CTK(CO)
CA(26/02/2016)