

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on : 01-12-2016

Orders pronounced on : 22-12-2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.24757 of 2016

and

W.M.P.Nos.21160 and 21161 of 2016

1. S.Baskar
2. T.Srinivasa Kamalakannan
3. R.Sivakumar
4. J.Tharmakumar
5. Dr.A.Srinivasan
6. Miss.T.Kuralmathi
7. K.Chandrasekaran
8. Tmt.R.Baby Vigila
9. Tmt.T.Uma

Vs.

...Petitioners

1. State of Tamil Nadu rep. by
The Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.
2. Director,
State Council of Educational
Research and Training,
Chennai-600 006.
3. Chairman,
Teachers Recruitment Board,
Chennai-600 006.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the Notification in Advertisement No.3/2016, dated 28.06.2016 issued by the third respondent as far as the Senior Training Centre is concerned and

quash the same and direct the respondents to fill up the posts of Senior Lecturers in District Institute of Education and Training Centre by way of promotion applying the ratio of 1:3.

For Petitioners:Mr.C.Selvaraj, Senior Counsel for
M/s.C.S. Associates

For Respondents:Mr.D.Suriya Narayanan, Government Advocate for R-1

Mr.V.S.Sethuraman, Additional Advocate General
assisted by Mr.M.Loganathan, Govt. Advocate for
RR-2 & 3

ORDER

The petitioners have filed this Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the Notification in Advertisement No.3/2016, dated 28.06.2016 issued by the third respondent as far as the Senior Training Centre is concerned and quash the same and direct the respondents to fill up the posts of Senior Lecturers in District Institute of Education and Training Centre by way of promotion, applying the ratio of 1:3.

2. It is the case of the petitioners that they are working as Lecturers in District Institute of Education and Training Centre (DIET). The next avenue of promotion is to the post of Senior Lecturer. In the DIET, there exists a 3-tier fold of teaching faculty, i.e. Lecturer, Senior Lecturer and Principal. As far as the Teacher Training Institute is concerned, though it is attached to State Council, there is no post of Senior Lecturer or Lecturer. There are 2-tier teaching faculty, i.e. Junior Lecturer and Principal. The Principal of Teacher Training Institute is in the cadre of Lecturer in the DIET. The above posts are governed by Special Rules (Ad-hoc Rules) framed in G.O.Ms.No.133, School Education Department, dated 14.06.2007 in exercise of power under Article 309 of the Constitution of India. The Lecturers in the DIET are directly affected persons, since their promotional avenue is to the post of Senior Lecturer, which is blocked by direct recruitment. The Association of Lecturers made a representation to fill up the post of Senior Lecturer as per the Special Rules by applying the ratio of 1:3. But unmindful of the same, they are going on filling up the vacancies periodically by direct recruitment. Since the representation was not properly considered and no

action has been taken, the petitioners have joined together and filed this Writ Petition.

3. It is the further case of the petitioners that the post of Senior Lecturer is governed by the Special Rules. As per the Special Rules, the said post has to be filled up: (i) by way of direct recruitment, (ii) by way of promotion from the holders of the post of Lecturer and (iii) by recruitment by transfer from the post of Principal of Government Teacher Training Institute. The said post of Senior Lecturer has to be filled up in the ratio of 1:3, i.e. one, by way of direct recruitment and three, by way of promotion. By the impugned Notification, the respondent-Teachers Recruitment Board has notified for filling up of 38 posts of Senior Lecturers for the year 2016, by way of direct recruitment. It is further stated by the petitioners that already, number of vacancies are to be filled up. The present Notification for 38 posts by direct recruitment is uncalled for, because, there are no vacancies for direct recruitment. It is the grievance of the petitioners that out of 51 posts available for direct recruitment, 48 have been already filled up, which is over and above the ratio. Therefore, the respondents have already filled up by way of direct recruitment the post of Senior Lecturer. The total sanctioned posts is 212. If 1:3 ratio is applied, the total posts by direct recruitment will be 53. It is further stated that as on date, 48 persons are holding the post of Senior Lecturer, who are directly recruited. For the year 2016, the respondent-Teachers Recruitment Board had notified 38 vacancies of Senior Lecturers to be filled up by direct recruitment. It is the grievance of the petitioners that if the said 38 vacancies are filled up by direct recruitment, the petitioners cannot think of promotion. Hence, challenging the said Notification, the present Writ Petition has been filed, for the relief stated supra.

4. When the Writ Petition is taken up for consideration, learned Senior Counsel appearing for the petitioners, while advertng to the averments made in the affidavit filed in support of the Writ Petition, submitted that the petitioners are working as Lecturers in the DIET and their next avenue of promotion is to the post of Senior Lecturer, which is governed by the Special Rules (Ad-hoc Rules). As per the Special Rules, the post of Senior Lecturer has to be filled up in the ratio of 1:3. He further contended that if the present 38 posts are filled up by direct recruitment, it will go against the ratio of 1:3. Hence, the learned Senior Counsel appearing for the petitioners prayed for quashing the impugned Notification and to direct the respondents to fill the said post by way of promotion by applying the said ratio of 1:3.

5. Per contra, learned Additional Advocate General, assisted by the learned Government Advocates, appearing for the respondents, while reiterating the averments made in the counter affidavit, submitted that there are about 293 Lecturers promoted to the post of Senior Lecturers and 59 Senior Lecturers were directly recruited through Teachers Recruitment Board. In the Ad-hoc Rules, it is specifically stated that vacancies arising in the post, shall be filled up so as to ensure that the proportion of appointment by direct recruitment and by promotion or by recruitment by transfer, shall be in the ratio of 1:3. Learned Additional Advocate General further submitted the details of promotion and direct recruitment from the year 2000 to 2016, which are as follows:

Year	Number of persons promoted to the post of Senior Lecturers like writ petitioners	Number of persons directly recruited and joined the post of Senior Lecturer
2000-2001	137	7
2005	19	-
2006	10	-
2007	0	32
2009-2010	46	-
2011	15	-
2014	28	-
2015	15	20
2016	23	-
Total	293	59

6. Based on the above details, learned Additional Advocate General submitted that in the year 2005, 2006, 2009-2010, 2011 and 2014, no direct recruits were selected. These posts were carried forward to the subsequent years. So far, none of the promotees challenged the system of carry forward. As on date, there are about 293 Senior Lecturers appointed by way of promotion and only 59 Senior Lecturers were appointed through direct recruitment. If the present 38 vacancies are filled up, even then 1:3 ratio will be maintained, and therefore, it is incorrect to state that the present recruitment is in violation of 1:3 ratio. Hence, learned Additional Advocate General prayed for dismissal of the Writ Petition.

7. Keeping in mind the above submissions made on either side, I have carefully considered the same and perused the materials available on record.

8. It is the main submission of the learned Senior Counsel appearing for the petitioners that the total sanctioned posts of Senior Lecturers is 212. The said post has to be filled up in the ratio of 1:3, i.e. one, by way of direct recruitment and three, by way of promotion from the post of Lecturer. According to the learned Senior Counsel appearing for the petitioners, already there are 48 direct recruits working as Senior Lecturers and presently, 117 persons are working as Senior Lecturers by way of promotion. He further submitted that by the impugned Notification, 38 posts of Senior Lecturers are to be filled up by way of direct recruitment, which is in violation of 1:3 ratio and therefore, the impugned Notification is illegal and liable to be quashed.

9. As submitted by the learned Additional Advocate General appearing for the respondents, it is seen that in the years 2005, 2006, 2009-2010, 2011 and 2014, absolutely, there was no direct recruitment and the posts meant for direct recruitment, were carried forward, which has not been challenged. Totally, 293 Lecturers were promoted to the post of Senior Lecturers and only 59 Senior Lecturers were directly recruited and four persons have already been promoted to the post of Senior Lecturers, and therefore, the total number of persons promoted to the post of Senior Lecturers comes to 297 (293 + 4). Even if the present 38 posts are filled up by direct recruitment, the total number of Senior Lecturers by way of direct recruitment will be 59 + 34 (38-4), i.e. 93 direct recruits. This shows that 1:3 ratio has been clearly maintained. Further, all the vacancies in the post of Senior Lecturer arising every year as per the estimate of vacancies, are being filled up by duly following the Ad-hoc Rules and the ratio of 1:3 prescribed in the Ad-hoc Rules is only for the vacancies that arises during the panel year and not for the cadre strength of the sanctioned posts.

10. For the foregoing reasons, I do not find any infirmity in the impugned Notification. The Writ Petition is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs. Consequently, W.M.Ps. are closed.

Sd/-

Assistant Registrar

//True Copy//

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Sub Assistant Registrar

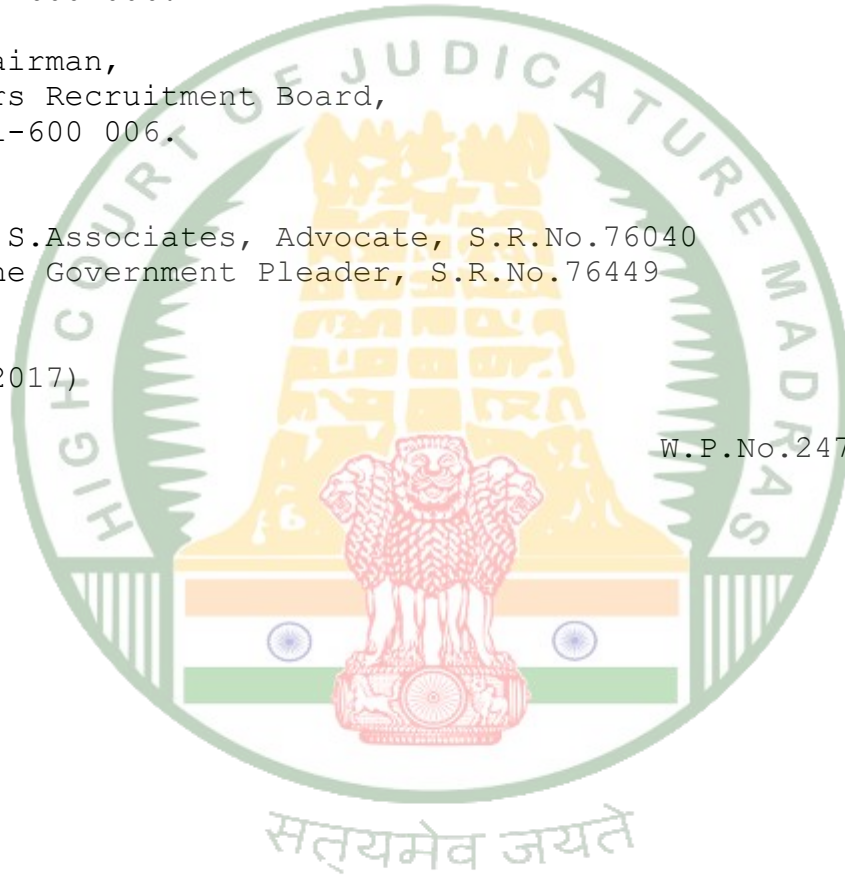
Copy to

1. The Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.
2. The Director,
State Council of Educational
Research and Training,
Chennai-600 006.
3. The Chairman,
Teachers Recruitment Board,
Chennai-600 006.

+1cc to C.S.Associates, Advocate, S.R.No.76040
+1cc to the Government Pleader, S.R.No.76449

KGK(CO)
RS(31/01/2017)

W.P.No.24757 of 2016



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