

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.3930 of 2013
and
M.P.Nos.1 & 2 of 2013

P.Charles Nelson

.. Petitioner

Versus

1.The Principal Secretary to Government
School Education Department
Secretariat, Fort St. George,
Chennai-600 009.

2.The Director of School Education,
DPI Complex, College Road,
Chennai-600 006.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records relating to the impugned letter of the 1st Respondent issued in letter No.6713/HE2/2012-4 School Education Department dated 15.5.2012 and to quash the same and to direct the Respondents to consider the name of the Petitioner for the post of P.G. Assistant (Economics) against the quota of 25 posts earmarked to the Secondary Grade Teachers for the year 2011-2012 as per the provisions under Rule2, Sub-Rule(6) under Clause(ii) of the Tamil Nadu Higher Secondary Education Service Rules.

For Petitioner: Mr.T.Ranganathan

For Respondents: Mr.R.Govindasamy
Special Government Pleader

O R D E R

Heard Mr.T.Ranganathan, learned counsel appearing on behalf of the petitioner and Mr.R.Govindasamy, learned Special Government Pleader appearing on behalf of the respondents.

2.The learned counsel for the petitioner submits that the petitioner is a Physical Education Teacher in Government Higher Secondary School, Kodambakkam, Chennai. The first respondent, had issued G.O.(Ms)No.79, Education Department,

dated 18.01.1990 and G.O.(Ms)No.132, EST Department, dated 21.02.1995 to the effect that the qualified Secondary Grade Teachers and other Teachers working with Secondary Scale of pay shall be appointed as School Assistants in Government High Schools/Government aided High Schools and as P.G.Assistant in Academic and language subjects in Government aided or Government Higher Secondary School by reserving 10% of the vacancies under direct Recruitment. Claiming benefit under the aforesaid two Government Orders, the petitioner had requested the respondents to consider his name for the post of P.G.Assistant (Economics) under the provisions of the Tamil Nadu Higher Secondary Education Service Rules. The first respondent by a letter dated 15.05.2012 had rejected the petitioner's claim stating that the request is not in accordance with the Rules. Challenging the same, the present writ petition has been filed.

3.The learned Special Government pleader on the other hand would submit that, as per the subsequent orders passed in G.O.(MS).No.223, School Education Department dated 16.07.1999, the Government had extended the benefit of 10% reservation to the qualified Secondary Grade Teachers working in the recognized Higher Secondary Schools, High Schools, Middle Schools and Elementary Schools under Local Bodies (Corporation or Municipal) and all aided managements. Since, the petitioner is working in the Government Higher Secondary School, he is not eligible to claim the benefit of the reservation.

4.It is seen from reading of G.O.(Ms)No.223, School Education Department, dated 16.07.1999, it is the intention of the Government to extend the benefit to the teachers working in Government Higher Secondary School also. The said G.O. does not exempt Government Higher Secondary Schools from its purview. It is evidenced from the reply dated 03.08.2011 given by the respondents to the petitioner's request under the Right To Information Act, wherein, they have admitted that, the Government had already extended the benefit of 10% reservation to a teacher working in the Government Higher Secondary School and who is similarly placed as that of the petitioner. Apparently, Government Higher Secondary Schools have been included within the purview of the G.O., since that is a reference to extending the benefit to 'recognized Higher Secondary Schools ' also. Under such circumstances, I am unable to accept the reasoning giving by the respondents in the impugned letter as well as in the counter affidavit. There is no justification as to why a similar benefit should not be extended to the petitioner also. The appointment made by the Government for similarly placed Secondary Grade Teachers as P.G. Assistant in Economics, as evidenced in the letter dated 13.08.2011 and refusing to extend the same benefit to the petitioner amounts to discrimination and hence, the petitioner is entitled for a similar relief.

5. In view of the above observations, the impugned order passed by the first respondent in his letter No.6713/HE2/2012/4, School Education Department, dated 15.05.2012 is quashed. The respondents are directed to consider the name of the petitioner for the post of P.G.Assistant (Economics) as per the provisions of the Tamil Nadu Higher Secondary Education Service Rules and issue appropriate appointment orders within a period of eight weeks from the date of receipt of copy of this order.

6. With the above observations, the Writ Petition is allowed. No Costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Asst.Registrar (CSV)

/true copy/

Sub Asst. Registrar

rm

To

1.The Principal Secretary to Government
School Education Department
Secretariat, Fort St. George,
Chennai-600 009.

2.The Director of School Education,
DPI Complex, College Road,
Chennai-600 006.

1 cc to Government Pleader, Sr. 61693

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