

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.6584 of 2016

M. Susaimary

.. Petitioner

Vs

1.The Secretary to Government,
Higher Education Department.
Fort St.George, Chennai-9.

2.The Director of Collegiate Education,
9th floor, EVKS Building,
DPI Campus, College Road,
Chennai-6.

.. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents 1 and 2 to consider the petitioner's representation dated 27.1.2016 and post her as Bursar in any of the existing vacancy in Government Arts Colleges in Chennai or in the next vacancy that arises strictly in the light of seniority within a time frame fixed by this Court.

For Petitioner : Mr.N.G.R.Prasad for
M/s. Row and Reddy

For Respondents : Mr. A.Kumar,
Spl. Govt. Pleader

ORDER

Heard Mr.N.G.R.Prasad, learned counsel appearing for petitioner and Mr.A.Kumar, learned Special Government Pleader appearing for respondents 1 and 2.

2. Mrs.Susaimary, has come to this Court seeking a Writ of Mandamus directing the respondents 1 and 2 to consider her representation dated 27.1.2016 and post her as Bursar in any of the existing vacancy in Government Arts Colleges in Chennai or in the next vacancy that arises strictly in the light of seniority tie break.

3. Learned counsel appearing for the petitioner would submit that the petitioner joined as a Junior Assistant under the 2nd respondent on 18.2.1982 and was promoted as Assistant and subsequently further promoted to the post of Superintendent. Later on, she was promoted as Bursar on 20.12.2012 and posted at Muthurangam Government Arts College, Vellore. Since then, she is working at Vellore. It is the grievance of the petitioner that when she joined the Vellore College, her husband died on 29.3.2015 leaving behind two sons and the petitioner as a widow. Her younger son is studying at 12th standard and elder son is doing B.Sc., in Chennai. Therefore the entire responsibility of taking care of them has been put on her shoulders. Besides that, the petitioner is also suffering from diabetes and high blood pressure. Since their sons are pursuing their studies in Chennai, she is unable to shift her family to any other place other than Chennai. Further, everyday, she has to travel from Chennai to Vellore early in the morning and returning to Chennai late night. Therefore, mentioning all her plights, the petitioner has made various representations dated 10.11.2013, 9.12.2013, 6.7.2014, 6.8.2014, 4.2.2015, 15.4.2015 and lastly on 27.1.2016 requesting the 2nd respondent to consider her request and transfer her back to Chennai.

4. In the meanwhile, a junior of her namely, S.Santhanam who was posted at Arignar Anna Womens Arts College, Walajapettai was transferred to Presidency College, Chennai on 20.07.2015. Similarly, one A.Jayashankar was also brought back from Mayiladuthurai to R.K.Nagar, Government College, Chennai on 8.10.2014 and one A.Thannoli, who was serving in Cheyyar is also brought back to Chennai on 8.10.2014. It is the case of the petitioner that her representations requesting her to transfer back to Chennai was not considered by the 2nd respondent inspite of the fact that the petitioner is a widow and she has to maintain her two children, who are pursuing their studies in Chennai.

5. Drawing notice of this Court to paragraph 10 of the counter affidavit filed by the respondent, learned counsel for petitioner submitted that one Mr. T.Ayyappan who is working presently as Bursar in Quaid-e-Milleth Government College for Women at Chennai is retiring on 31.3.2016, therefore, if the 2nd respondent is directed to consider the case of the petitioner in the said vacancy, that would take care of the petitioner's plight enabling her two sons to continue their studies in Chennai.

6. Opposing the above prayer, learned Special Government Pleader appearing for the respondents submitted that when the petitioner is serving as a State Government employee, she

cannot ask for transfer as a matter of right, because transfer is not only incident of service but also condition of service. He would further submit that in the cases of A.Jayashankar and A.Thannoli, the 2nd respondent has considered their respective transfers from Mayiladuthurai and Cheyyar to Chennai on various personal grounds. For example, in the case of Jayashankar, he was transferred to Chennai based on his health ground. Therefore, no direction could be given to the petitioner to transfer from one place to another place.

7. Further, the learned Special Government Pleader would submit that in the case of Jayashankar, he was promoted to the higher post and subsequently for filling the available vacancy in Chennai, he was brought down. Therefore, the petitioner cannot compare her case with the case of others on the ground that the juniors were brought back to Chennai leaving her request for transfer.

8. In reply, learned counsel for the petitioner submitted that though in the case of Mr.S.Santhanam, who was brought back to Chennai from Walajapettai, he was promoted and posted to Arignar Anna Womens Arts College, Wallajapettai and transferred to Presidency College, Chennai. Mr.S.Santhanam was shown as Junior at Serial No.18 in G.O.Ms.245 Higher Education Department dated 19.12.2012 and the petitioner was shown as Senior at Serial No.10. Therefore, this petitioner, being senior to Mr.S.Santhanam, deserves better consideration on added ground that she is a widow. I find some force here.

9. As per the order passed by this Court in W.P.No.8007 of 2014 dated 25.7.2014, filed by Mr.S.Santhanam, he has been brought back to Chennai from Wallajapet on 20.7.2015. Whiles, similarly two other persons viz., Jayashankar and Thannoli were also brought back to Chennai by order dated 8.10.2014 and 8.10.2014 respectively.

10. In any event, since the respondent in their counter affidavit, at paragraph 10 has stated that one Mr.T.Ayyappan who is working as Bursar in Quaid-e-Milleth Government College for Women at Chennai is going to retire on 31.3.2016, the respondents are directed to consider the case of the petitioner on compassionate ground also as she is a widow. This exercise shall be done within a period of four weeks from the date of receipt of a copy of this order.

11. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

To

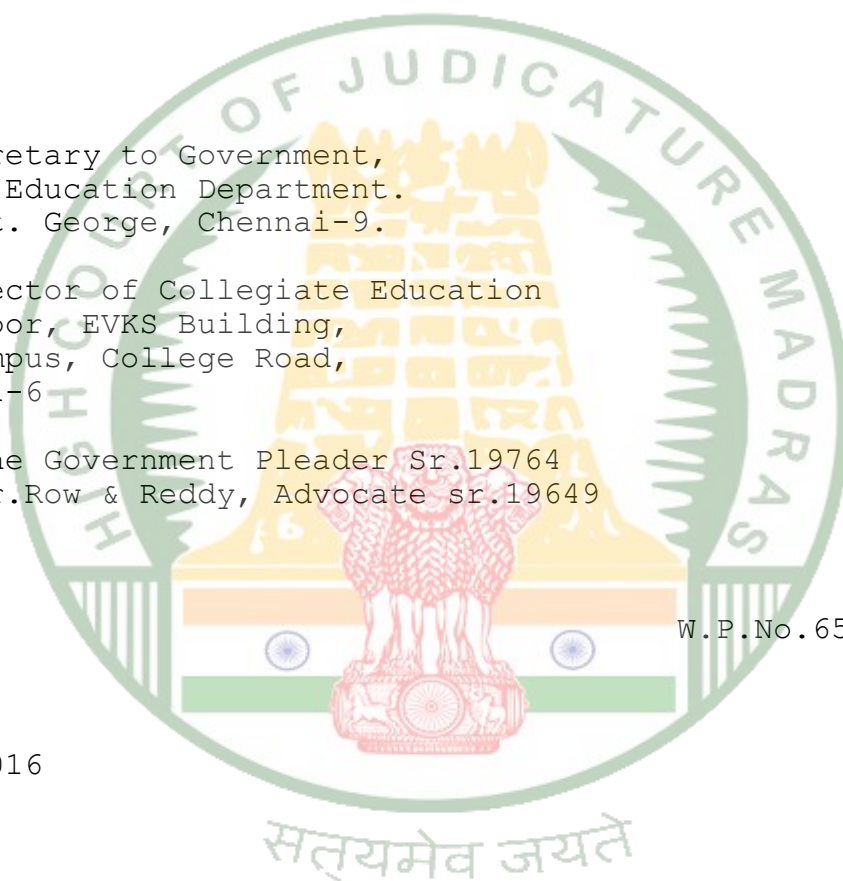
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2.The Director of Collegiate Education
9th floor, EVKS Building,
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Chennai-6

+1cc to the Government Pleader Sr.19764
+1cc to Mr.Row & Reddy, Advocate sr.19649

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srg 5/4/2016



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