



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition (MD) No.13802 of 2016
and
W.M.P (MD) No.10297 of 2016

C.Dhakshinamoorthy

... Petitioner

Vs.

1.The Principal Secretary,
Education Department,
Fort St., George, Chennai 9.

2.The Director of School Education,
Office of the Director of School Education,
Chennai 600 006.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the second respondent to consider the petitioner's representation dated 09.07.2016 requesting the second respondent to transfer the petitioner from Government Higher Secondary School, Pallathur, Tanjore District, and post the petitioner as Headmaster in Government Girls Higher Secondary School, Pattukottai.

For Petitioner : Mr.PT.S.Narendra Vasan

For Respondents : Mr.T.S.Mohammed Mohideen,
Additional Government Pleader.

ORDER

This writ petition has been filed for the issuance of a writ of mandamus to direct the Director of School Education, Chennai, the second respondent herein to consider the representation of the petitioner dated 09.07.2016 wherein he has sought for transfer from Government Higher Secondary School, Pallathur, Tanjore District and to post him as Headmaster in Government Girls Higher Secondary School, Pattukottai.

2.Learned counsel appearing for the petitioner would submit that presently, the petitioner is working as Headmaster in



the Government Higher Secondary School, Pallathur, Tanjore District. He would further contend that as he is working with 50% disability, as per the certificate issued by the competent authority dated 31.05.2013 showing the nature of disability as locomotor disability, he is entitled to get the benefit under Sections 32 and 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter referred to as 'the Act'), for further promotion. He would further contend that though he was working for more than 18 years as P.G.Assistant, he was not considered for promotion as a preferential candidate in view of Sections 32 and 33 of the Act. Therefore, he has filed W.P(MD)No.5670 of 2015, seeking for a direction to the Director of School Education, Chennai to promote him as Headmaster in Government Higher Secondary School, Tanjore District under 3% quota for disabled persons, as provided under Section 33 of the Act.

3.This Court, by an order dated 23.04.2015, disposed of the said writ petition, directing the third respondent to consider the case of the petitioner and call the petitioner for counselling in the initial stage itself, if he falls within the provisions of the Act. Accordingly, by applying Sections 32 and 33 of the Act and complying with the orders of this Court, he was promoted as Headmaster in Government Higher Secondary School, Pallathur, Thanjavur District as there was no vacancy in Pattukottai, he was accommodated in the above said place.

4.He would further contend that since general counselling is going to take place, a direction may be given to consider his case on priority category, as he is a person with 50% disability.

5.But this Court is not able to find any merits on the above submission made by the learned counsel appearing for the petitioner, for the reason that earlier, the petitioner has come to this Court by filing W.P.(MD)No.5670 of 2015, seeking for a direction to the third respondent to consider his case for promotion to the post of Headmaster in Government Higher Secondary School, Pallathur, Tanjore District under 3% quota for disabled persons as provided under Section 33 of the Act. However, the contention made by the learned counsel for the petitioner that since there was no vacancy in Pattukottai, at the time of giving promotion to the petitioner, he was promoted as Headmaster in Government Higher Secondary School, Tanjore District, is far from acceptance. Secondly, it was heavily contended by the learned Additional Government Pleader that the petitioner being a physically challenged person with 50% disability, cannot surpass or jump the queue of other physically challenged persons who are already in the list.

<https://hcservices.ecourts.gov.in/hcservices/>

6.For the foregoing reasons, the writ petition fails and it is dismissed. However, it will not preclude the petitioner from



taking part in the counselling scheduled to be held on 06.08.2016, if he is called for, as per the eligibility. No costs. Consequently, W.M.P(MD)No.10297 of 2016 is closed.

Sd/-

Assistant Registrar(writ)

WEB COPY

/TRUE COPY/

Sub Assistant Registrar

sms

To

1.The Principal Secretary,
Education Department,
Fort St., George, Chennai 9.

2.The Director of School Education,
Office of the Director of School Education,
Chennai 600 006.

+1CC THE SPECIAL GOVERNMENT PLEADER, IN SR.NO. 41554

JAM/11.08.2016/NGM-MP/ 3P-4C

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