



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 03.10.2016

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CORAM :

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. (MD) .No.2165 of 2011
and
M.P (MD) Nos.1 and 2 of 2011

K.K.Kumari Anitha

.. Petitioner

.Vs.

1.The Chairman,
Teachers Recruitment Board,
DPI Complex, Egmore, Chennai.

2.The Director of Elementary Education,
Chennai-6.

3.The District Elementary Educational Officer,
Pudukkottai District.

4.The Assistant Elementary Education Officer,
Avudayarkovil Union,
Pudukkottai District.

5.The District Employment Officer,
District Employment Exchange,
Nagercoil,
Kanyakumari District.

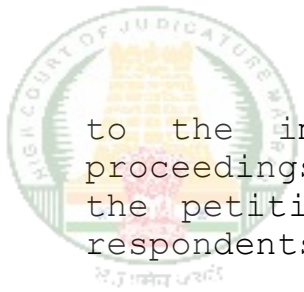
... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 3rd respondent in his proceedings in Na.Ka.No.4887/A3/2010 dated 14.02.2011 and quash the same and direct the respondents to confer all the consequential benefits.

For Petitioner : Mr.V.Panneerselvam

For Respondents :Mr.K.Guru
Additional Government Pleader

O R D E R



to the impugned order passed by the 3rd respondent in his proceedings in Na.Ka.No.4887/A3/2010 dated 14.02.2011, cancelling the petitioner's appointment and quash the same and direct the respondents to confer all the consequential benefits.

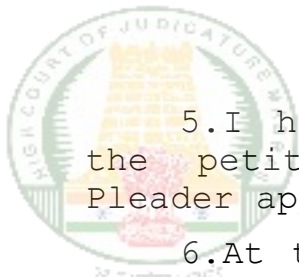
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2.The case of the petitioner is that having passed B.Ed., and being fully qualified to be appointed as a B.T Assistant, the petitioner's name was sponsored vide Employment exchange seniority by the fifth respondent, for the post of Graduate Assistant in schools under Government School Education Department. Based on the same the Teachers Recruitment Board vide memo dated 30.04.2010, called upon the petitioner to appear for certificate verification, which was scheduled to be held on 13.05.2010. The petitioner accordingly participated and was selected and appointed by the proceedings of the 2nd Respondent in Na.Ka.No.26555/A5/2010 dated 08.09.2010. Thereupon the petitioner attended the counselling conducted for the selected candidates and was appointed in Panchayat Union Middle School, Piranthani, Pudhukottai District. Hence the petitioner joined her service and is working in the said school. While so without any notice, the third Respondent by the impugned proceedings has cancelled the appointment of the petitioner. Hence the said order is under challenge in this Writ petition.

3.It is the further case of the petitioner that her name was sponsored by the virtue of her seniority in Employment Exchange and the requisite qualification. It was further contended that the petitioner being the daughter of an Ex-Service man, she is entitled to get appointment on Priority basis too. The petitioner has also submitted a certificate to that effect on the request of the 2nd respondent at the time of certificate verification.

4.The respondents filed counter and contended as follows:

The petitioner was sponsored on the strength of her seniority before the fifth respondent Employment exchange. The petitioner was selected and hence called for certificate verification. She was called in the manner of General Turn, whereas not called in priority basis. The petitioner has submitted priority certificate only at the time of certificate certification. Based on the said certificate she got appointed on priority basis. Further it was contended, since this petitioner's appointment was provisional and she undertook to abide by condition No.16, whereby in case of discrepancy no notice is required to be issued to the petitioner in case of cancellation of appointment. Therefore no show cause notice is required to the petitioner.



5.I heard Mr.V.Panneerselvam, learned counsel appearing for the petitioner and Mr.K.Guru, learned Additional Government Pleader appearing for the respondents.

6.At the very outset, the Learned counsel for the petitioner drawn the attention of this Court to an earlier order of this court passed in W.P.(MD)No. 2251 of 2011 dated 04.08.2014, wherein this court dealt with an identical issue involving similar set of facts. It is noteworthy that the petitioner in W.P.(MD)No.2251 of 2011 namely K.Geetha was also been selected along with this petitioner in the same selection process. The said Geetha alike of this petitioner is also found to be sponsored on seniority in General Turn and appointed on Priority basis. Her appointment was subsequently cancelled by the 3rd Respondent herein vide the same impugned proceedings, besides stating the same reasons. The said order of cancellation was challenged before this court in the above referred Writ petition.

7.This Court while allowing the Writ Petition in W.P.No.2251 of 2011, vide para 8 held as follows:

"8.The action taken by the first respondent cannot be appreciated. The priority to be given to certain categories cannot be treated as a reservation, either horizontal or vertical. When two people are equally placed, the one who falls within the priority category will be selected. In the case on hand, though she was not sponsored under priority category and was sponsored only under General category, at the time of verification, she produced certificates showing that she is entitled for priority as Ex-serviceman. This was rightly considered and the petitioner was appointed. But, the cancellation order will only reflect that the Teachers Recruitment Board has treated as priority as reservation, which in my considered opinion is not correct. At any rate, the appointment of the petitioner cannot be stated illegal or erroneous and therefore the impugned order is liable to be set aside."

8.Thus this Court in view of the order passed in W.P.(MD)No. 2251 of 2011 dated 04.08.2014 and having reliance upon same, hereby set aside the impugned order.

9.In the result, the writ petition is allowed. It is brought to my notice that the petitioner has been serving all along on account of an interim order passed by this Court. It is directed that the service of the petitioner during the interregnum period shall be regularised and the said exercise shall be done within a period of eight weeks from the date of receipt of a copy of this



order. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)

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Sub Assistant Registrar

To

- 1.The Chairman,
Teachers Recruitment Board,
DPI Complex, Egmore, Chennai.
- 2.The Director of Elementary Education,
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- 3.The District Elementary Educational Officer,
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- 4.The Assistant Elementary Education Officer,
Avudayarkovil Union,
Pudukkottai District.
- 5.The District Employment Officer,
District Employment Exchange,
Nagercoil, Kanyakumari District.

+1cc to M/s.C.S.Associates, SR.58077

+1cc to M/s.Special Government Pleader, SR.58310

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and
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03.10.2016

VS/SKN

KK/SKN RSK/SAR3/04.07.2017/4P-8C