

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.24761 of 2011

and

W.M.P.No.2 of 2011

V.Anuradha

.. Petitioner

Vs

- 1.The State of Tamil Nadu
Represented by its Principal Secretary
Labour and Employment Department
Secretariat, Chennai - 600 009.
 - 2.The Commissioner
Employment and Training Department
Guindy, Chennai 600 032.
 - 3.The Joint Director (Craftsmen Training)
Employment and Training Department
Guindy, Chennai 600 032.
- ...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue an order of direction, or a writ or an order and most specifically in the nature of Writ of Certiorarified Mandamus, calling for the records on the file of second respondent his proceedings in R.C.No.TPI/27377/2010 dated 30.09.2010 and quash the same and consequently directing the respondents herein create a post of Assistant Training Officer (Language) forthwith promote the petitioner to the said post of Assistant Training Officer in the Employment and Training Department.

(Prayer Amended as per order dt.16.11.2011 by KSAJ in MP 3/11 in WP.No.24761/11)

For Petitioner : Mr.J.Selvarajan

For Respondents: Mr.K.Dhanajeyan
Special Government Pleader

O R D E R

The claim of the Writ petitioner is that she is entitled for promotion to the post of Assistant Training Officer in Government Training Institute. The petitioner is working as Junior Training Officer (Language - English). The petitioner has made a representation to the respondents to consider her case for promotion to the post of Assistant Training Officer (Language - English).

2. The learned Government Advocate appearing for the respondents submitted that there is no promotional post of Assistant Training Officer (Language - English).

3. In the absence of any such post, the case of the petitioner cannot be considered. At this juncture, the learned counsel for the Writ petitioner submitted that the very claim of the Writ petitioner is for creation of post of Assistant Training Officer (language - English). Creation of any such post or category is prerogative power to the Government and the Policy decision and thus, this Court cannot issue any direction to the Government with regard to the creation of any post or category.

4. The position with regard to the non-availability of promotional post of Assistant Training Officer (language - English), the respondents enumerated in Para.6 and 7 of their counter, which is extracted here under:

"6. With regard to the averments made in paragraph 6 of the affidavit, it is humbly submitted that while Assistant Training Officer post is not available as per service rules, the petitioner could not be considered for promotion. The claim that the juniors to the petitioner had been promoted is also not correct. The comparison of the petitioner with the other technical category of post who play the major role in the training programme is not acceptable and within her category no junior had been promoted.

7. With regard to the averments made in paragraphs 7 and 8 of the affidavit, it is submitted that the petitioner filed a Writ Petition in W.P.No.17446 of 2010 and this Hon'ble Court in order dated 04.08.2010 directed the respondents therein to consider the representation of the petitioner dated 11.06.2010 and pass appropriate orders, on merits and in accordance with law, within a period of 8 weeks from the date of receipt of a copy of this Order. As there is no promotional post of Assistant Training

Officer(Language) as per service rules, the petitioner could not be promoted and there is necessity to create this post in this Department. Hence, the request of the petitioner was rejected, on these grounds. This was informed to the petitioner vide letter No.27377/TP1/2010, dated 30.09.2010."

5. In view of this factual possession, the claim of the Writ petitioner for promotion to the post of Assistant Training Officer (language - English) cannot be considered. Accordingly the Writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

gsk

To

- 1.The Principal Secretary,
State of Tamil Nadu,
Labour and Employment Department,
Secretariat, Chennai - 600 009.
- 2.The Commissioner,
Employment and Training Department,
Guindy, Chennai 600 032.
- 3.The Joint Director (Craftsmen Training),
Employment and Training Department,
Guindy, Chennai 600 032.

+1cc to Mr.J.Selvarajan,Advocate sr.26284

W.P. No.24761 of 2011

skv(co)
ss(12/5/2017)

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