

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.2137 of 2013

and

M.P.No.1 of 2013

R.Tamilarasi

.. Petitioner

Vs.

1.The Teachers' Recruitment Board,
Rep. by its Chairman,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road,
Chennai - 600 006.

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

3.The Joint Director of School Education (Higher Secondary),
Office of Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified mandamus to call for the records relating to the proceedings issued by the 3rd respondent in Na. Ka. No. 97649/W2/E2/2012 dated 31.12.2012 and to quash the same and consequently direct the respondents to restore the order of appointment issued by the 3rd respondent in Na. Ka. No. 097649/W2/E1/2012 dated 12.12.2012 and issue an order of allotment of school in favour of the petitioner within the time frame to be fixed by this Honourable Court with all consequential and attendant benefits including seniority based on selection and other benefits.

For Petitioner
For Respondents

: Mr.G.Sankaran
Mrs.M.E.Raniselvam
: Addl. Government Pleader

ORDER

The petitioner has filed this writ petition seeking issuance of a writ of Certiorari mandamus to call for the records relating to the proceedings issued by the 3rd respondent in Na.Ka.No. 97649/W2/E2/2012, dated 31.12.2012 and to quash the same and consequently direct the respondents to restore the order of appointment issued by the 3rd respondent in Na.Ka.No.097649/W2/E1/2012, dated 12.12.2012 and issue an order of allotment of school in favour of the petitioner within the time frame to be fixed by this Honourable Court with all consequential and attendant benefits including seniority based on selection and other benefits.

2. The facts in a nutshell are as under: According to the petitioner, the first respondent Teachers' Recruitment Board issued notification calling for applications for direct recruitment to the vacancies to the post of Post Graduate Assistants in various subjects for the year 2011-2012. The petitioner claims that he is fully qualified and applied for the said post. Pursuant to the petitioner's participation in the selection process, results of the written examination were declared in which he secured 97 marks.

3. It is the case of the petitioner that in a petition questioning correctness of the key answers given by the first respondent/Board for the above said written examination, this Court directed the first respondent/Board to revise the marks and consequent to such revision, the petitioner was awarded 98 marks.

4. Based on the marks secured to him, the petitioner's name is stated to have been included in the provisional list for candidates called for certificate verification and consequent to the said direction, the petitioner produced all the original certificates and the same are stated to have been duly verified by the officials concerned. Thereafter, final results were published by the first respondent and ultimately, the petitioner was selected to the post of P.G. Assistant in Physics and in the order dated 11.12.2012, it is stated that such appointment was under Physically Handicapped quota.

5. It is the case of the petitioner that he is neither a physically challenged person nor stated so in the application claiming appointment. Thereupon, the petitioner claims to have approached the office of the Chief Educational Officer, who informed that it could be a typographical error and that the petitioner is eligible for appointment in B.C. category.

6. The petitioner was issued appointment order to the post of P.G. Assistant by the third respondent on 12.12.2012, in which it was stated that allotment of school would be based on

the counselling to be conducted. The petitioner also participated in the counselling on 31.12.2012 and exercised his option, but no school was allotted to him.

7. Thereafter, the third respondent passed an order dated 31.12.2012 cancelling the appointment of the petitioner on the ground that his name was not included in the subsequent list issued by the first respondent on 27.12.2012.

8. Assailing the said order dated 31.12.2012, the present writ petition is filed for the relief stated supra.

9. I heard Mr.G.Sankaran, learned counsel for the petitioner and Mrs.M.E.Raniselvam, learned Additional Government Pleader for the respondents and perused the entire records.

10. It is the contention of the learned counsel for the petitioner that the order of cancellation of appointment is ex facie illegal, arbitrary and against law, inasmuch as the same is passed in gross violation of the principles of natural justice.

11. It is further submitted that there was no second select list drawn on 27.12.2012 and the same was never published and placing reliance on such document, the petitioner's appointment ought not to have been cancelled, when he was permitted to participate in the counselling on 31.12.2012 and in fact, he exercised his option for allocation of school.

12. The learned Additional Government Pleader appearing on behalf of respondents 1 to 3 reiterated the reasons that weighed with the respondent authorities and prayed for dismissal of the writ petition.

13. In the case on hand, it is beyond any cavil that the petitioner's name was included in the final select list published by the first respondent on 11.12.2012. Based on such selection, the petitioner was also issued an order of appointment to the post of P.G. Assistant in Physics by the third respondent vide proceedings dated 12.12.2012.

14. That apart, it is the specific plea of the petitioner that he participated in the counselling conducted on 31.12.2012 for allocation of schools and exercised his option with reference to the placement and allocation of school. This Court is at a loss to understand as to how the petitioner's appointment was cancelled on 31.12.2012, when, in fact, he was permitted to participate in the counselling conducted on 31.12.2012. Moreover, in the impugned order, reliance is placed on a subsequent list dated 27.12.2012. If such subsequent list

existed, the petitioner ought not to have been permitted to attend the counselling. The respondent authorities having permitted the petitioner to participate in the counselling held on 31.12.2012, cannot say that the name of the petitioner was not included in the second list dated 27.12.2012.

15. Even though the learned Additional Government Pleader entered appearance as early as 29.01.2013, till date no counter affidavit has been filed, any document showing the existence of the second list dated 27.12.2012 was produced before this Court.

16. Even though the petitioner's selection was wrongly stated as under Physically Challenged category, it is not the case of the respondent authorities that the petitioner furnished false information or misrepresented before them. The petitioner's appointment was based on the details furnished by him to the employment exchange. Even otherwise, it is the specific plea of the petitioner, based on the information obtained from the Chief Educational Officer, that the petitioner is entitled to appointment in B.C. Category.

17. It is trite that principles of natural justice are one of the foremost products of civilized jurisprudence and are grounded in justice, equity and good conscience and it is equally well settled that principles of natural justice apply to the administrative actions. The rule of audi alteram partem, to wit, that no man shall be condemned unheard and a fair opportunity of being heard should be afforded to him, is a cardinal principle of justice and violation of this rule even in the discharge of administrative duties which may adversely affect a person cannot be countenanced.

18. That apart, the impugned order is a non-speaking order. It does not contain any reason for cancelling the appointment of the petitioner. The impugned order does not in any manner show that the authorities had applied mind to the relevant aspect that the petitioner participated in the counselling held on 31.12.2012.

19. It is settled legal position, as discussed above, that even an administrative order which has the effect of visiting a person with civil consequences has to be passed adhering to the principles of natural justice which includes recording of reasons, unless specifically dispensed with by the relevant Rules or Statute. Learned Counsel for the respondents has failed to show any provision by which recording of reasons for granting or refusing age relaxation has been dispensed with.

20. In the result:

(a) this writ petition is allowed and the impugned order in

Na.Ka.No.97649/W2/E2/2012, dated 31.12.2012, passed by the 3rd respondent, is quashed;

(b) the respondents are directed to restore the order of appointment of the petitioner issued by the 3rd respondent in Na.Ka.No.097649/W2/E1/2012 dated 12.12.2012 and to issue an order of allotment of the school in favour of the petitioner;

(c) 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 petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vs

To

- 1.The Chairman,
Teachers' Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Campus, College Road, Chennai - 600 006.
- 2.The Director of School Education,
DPI Campus,
College Road, Chennai - 600 006.
- 3.The Joint Director of School Education (Higher Secondary),
Office of Director of School Education,
DPI Campus, College Road, Chennai - 600 006.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.68645

+1cc to the Government Pleader, S.R.No.68862

RRK(09/03/2018)

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