

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.07.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.2765 of 2013 and
M.P.No.1 of 2013 & 1 of 2015 and
WMP.No.20091 of 2016

T.Gangeswari .. Petitioner
Vs.

1.The State,
rep. by the Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.

2.The Member Secretary,
Teachers Recruitment Board,
EVK Sambath Building,
DPI Compound, College Road,
Chennai - 600 006.

3.The Commissioner,
Employment and Training,
Commissioner office,
Guindy, Chennai - 32.

4.M.K.Ravichandran ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd and 3rd respondents to consider the petitioner's representation dated 30.10.2012 and to appoint the petitioner as B.T. Assistant based on the petitioner's employment seniority within a stipulated time.

For Petitioner

: Mr.P.Ganesan
for CS Associates

For Respondents : Mr.K.Venkatramani
Addl. Advocate General
assisted by
Mrs.M.E.Rani Selvam
Addl. Government Pleader
for respondents 1 to 3

ORDER

This writ petition has been filed by the petitioner seeking a writ of mandamus to direct the respondents 2 and 3 to consider the representation of the petitioner dated 30.10.2012 and to appoint him as B.T. Assistant based on the employment seniority.

2. The case of the petitioner is that she enrolled her name with the Assistant Director of Professional and Executive Employment office, Santhome at Chennai in the year 1987 and the fourth respondent enrolled his name in the year 1993. Both of them have attended certificate verification before the second respondent on 23.06.2012. Though the petitioner enrolled in the year 1987 and is senior to the fourth respondent, she was not selected for appointment as Graduate Assistant and the fourth respondent was selected as Graduate Assistant. On 30.10.2012, the petitioner submitted a representation to the second respondent to select him in the place of the fourth respondent as B.T. Assistant and till date no order has been passed on the representation of the petitioner.

3. The second respondent filed counter stating that the petitioner registered her qualification on 06.11.1992, she was not considered for selection in BC (G) and BC (W) turn, as her seniority does not reach the zone of selection in BC turn. It is stated that since the fourth respondent was within the zone of selection, he was selected under BC (G) turn for the subject B.T. Assistant (Tamil). According to the second respondent, the petitioner registered her B.Ed., qualification only on 06.11.1992 and, therefore, she was not considered for selection.

4. The third respondent filed counter stating that during the year 2009, the second respondent notified 283 vacancies of Graduate Assistant to the office of the third respondent with request to nominate State wide panel and at that time, the fourth respondent's name was not nominated. It is true that the petitioner attended certificate verification conducted by the Teachers Recruitment Board and later it was communicated by the TRB that the petitioner was selected for appointment as Graduate Assistant on 31.01.2012 itself.

5. According to the third respondent, for the subsequent backlog vacancies notified by the second respondent, the fourth respondent's name was sent as his seniority dated 26.04.1993 falls within the cut-off date of seniority. The name of the petitioner was not considered in the subsequent list finalised on 28.03.2012 on the ground that she was already offered appointment by the TRB on 31.01.2012 itself. It is stated that the name of the fourth respondent was nominated only for the subsequent vacancies notified by TRB during the year 2012, whereas the name of the petitioner, who was senior to the fourth respondent was nominated to TRB for the vacancies notified for the year 2009. Since the role of the third respondent was restricted with nomination of suitable and eligible candidate for the vacancies notified by various employers, the third respondent has no role in the selection process conducted by the employers and prayed for dismissal of the writ petition.

6. I heard Mr.P.Ganesan, learned counsel appearing for the petitioner and Mr.K.Venkatramani, learned Additional Advocate General assisted by Mrs.M.E.Rani Selvam, learned Additional Government Pleader for the respondents 1 to 3 and perused the entire materials available on record.

7. In his petition, the petitioner had simply stated that though she attended the certificate verification held on 23.06.2012, she was not selected and the fourth respondent, who was junior to her, was selected for appointment to the post of Graduate Assistant.

8. The case of the second respondent is that the petitioner registered her qualification in the Employment Exchange only on 06.11.1992. Provisional selection for backlog vacancies 2010-2011, the Board selected candidates in BC (G) and BC (W) turn for B.T. Assistant (Tamil) within the cut-off 30.9.1992 and 29.9.1992 respectively. Since the petitioner's seniority falls on 6.11.1992, she was not considered for selection in BC (G) and BC (W) turn.

9. According to the second respondent, earlier, the petitioner was selected for appointment as Graduate Assistant on 31.01.2012 and the same was communicated to her and she had not accepted the appointment. It is the say of the second respondent that the name of the petitioner was not considered in the list finalised on 28.03.2012 on the ground that she was already offered appointment by the TRB on 31.01.2012 itself. To prove that no such selection was made and no such order was communicated, the petitioner has not produced any materials.

10. Nothing has been produced by the petitioner to show that by overlooking the seniority, the fourth respondent was selected. In the absence of any material, it cannot be contended that the fourth respondent, who was junior to the petitioner was selected and appointed to the post of Graduate Assistant (Tamil). It is to be noted that the allegations set out in the affidavit are vague and in support of the allegations, no materials have been produced by the petitioner and the writ petition is liable to be dismissed.

11. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

vs
To

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+1 CC to M/s.C.S. Associates sr 54104.

+1 CC to Govt. Pleader sr 54407

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GSP (06/07/2018)