

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.Nos.43348 of 2016, 971 of 2017,
WMP Nos.37219 of 2016, 1717 of 2017 and
WMP No.959 of 2017

1. The Union of India represented by
The Secretary to Government,
Department of Personnel & Training,
Central Secretariat,
New Delhi. ...I Petitioner in W.P.No.959/17

Union of India rep by Secretary to Government,
Education Department, Chief Secretary,
Puducherry-605001 ...I Petitioner in W.P.No.43348/16
2. The Director of Education,
Directorate of School Education,
Government of Puducherry,
Perunthalaivar Kamarajar Centenary,
Educational Complex,
100 Feet Road, Anna Nagar,
Puducherry - 605 005. ...II Petitioner in both WPs

vs.

1. Central Administrative Tribunal,
Rep.by the Registrar,
Additional City Civil Court Buildings,
High Court Campus,
Madras Bench, Chennai. ...1st respondent in both
WPs

- 2.A.Kamalacannane
- 3.T.N.Nithya
- 4.S.Kumaraguru
- 5.R.Stalin
- 6.P.Santhy
- 7.A.AmitAshok Kumar Patel
- 8.K.Muthumalar
- 9.K.Thanigaikoumarane
- 10.A.Radakichanin
- 11.V.Sreeja
- 12.P.Balakrishnan
- 13.S.Ramadoss
- R2.G.Sivanandam

...Respondents 2 to 13 in
W.P.No.43348/2016

R3.A.Amit Ashok Kumar Patel
R4. R.Stalin
R5.K.Muthumalar

Respondents 2 to 5 in W.P.No.971/2017

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of Certiorari, calling for the records pertaining to the order passed in O.A.Nos.310/00965/2015 and OA.No.1614/2015 respectively, dated 10.02.2016 on the file of the Central Administrative Tribunal, Madras Bench and Quash the same.

For Petitioners : Mr.Syed Mustafa
Spl.Govt.Pleader

For Respondents : Mr.Bharathachakravathy
for M/s.Sai, Bharath and Ilan
for R2 in both writ petitions.

C O M M O N O R D E R

K.K.SASIDHARAN, J.

The second respondent in W.P.No.43348 of 2015 and W.P.No.971 of 2017 (hereinafter referred to as respondents) filed original applications before the Madras Bench of Central Administrative Tribunal (hereinafter referred to as Tribunal), to declare the selection of respondents 3 to 13 and 3 to 5 in the respective Writ Petitions illegal and to re-do the process of selection. The Tribunal notwithstanding the contention taken by the petitioners herein that the select list is yet to be published and the original applications are premature, entertained the applications and directed the Puducherry administration to consider the final list in the light of the observations made in the common order. Feeling aggrieved, the petitioners are before this Court.

2. The Secretary to Government, Education Department, Puducherry, filed an affidavit before us today, stating that the Education Department is yet to publish the select list.

3. Though the learned counsel for the respondents confirmed the factual position narrated in the affidavit filed by the Secretary to Government dated 28 February 2017, he would contend that even before publishing the select list, the petitioners commenced the process of certificate verification of the selected candidates, giving a clear indication that selection has already been done and the same made the respondents to file the original applications.

4. The learned Special Government Pleader (Services) submitted that the applicants in the original application managed to obtain the minutes of the Selection Committee proceedings and filed the original applications, notwithstanding the fact that selection process is yet to be completed.

5. The original applications filed before the Tribunal proceeds as if selection was finalized and the select list was published. However, the fact remains that no such select list was produced by the respondents before the Tribunal so as to give a cause of action to file original applications.

6. The respondents are not entitled to approach the Tribunal challenging the selection, unless and until the select list is published. The Tribunal notwithstanding the finding recorded that the select list is yet to be published, entertained the original applications and tendered advice to the Government of Puducherry as to how selection should be conducted.

7. The learned counsel for the respondents by placing reliance on the reply statement filed by the Director of Education, contended that in the reply, the second petitioner has admitted the selection of candidates and the age relaxation given, and as such, the respondents were justified in filing original applications.

8. The Directorate of Education, Puducherry, also contributed for passing adverse orders by the Tribunal by dealing with the contentions with regard to the merits of the selection process, even before publishing the select list by filing reply statement to make it appear as if selection was finalized. The affidavit filed today by the Secretary (Education) is in variance from the reply filed in the original application. We are at a loss to understand as to why the Director of Education made an attempt to justify the selection by responding to the contentions in the original application, when it is his specific case that the selection process is in the midway and the select list is yet to be published. The Director of Education ought to have taken up a plea to dismiss the original application, as premature and non maintainable, without making an attempt to justify the selection dealing with each and every contention taken by the respondents.

9. Even though the respondents have no right to approach the Tribunal before publishing the select list, the reply statement filed by the Director of Education, gave them ammunition to make out an arguable case and to persuade the Tribunal to consider the matter on merits.

10. The Tribunal committed a jurisdictional error by entertaining the original applications even before publishing the select list.

11. The Supreme Court in State of Andhra Pradesh and ors. vs. D.Dastagiri and ors., 2003 (5) SCC 373, held that in the absence of publication of select list, it cannot be said that the selection process is complete. According to the Hon'ble Supreme Court, even the candidates included in the select list have no vested right to claim appointment.

12. We make the legal position clear that the original application challenging the selection is not maintainable

without publishing the select list. In short, the Tribunal has no jurisdiction to entertain original application, challenging the selection or selection process without publishing the select list. The mere statement in the original application that the selection has already been finalized would not serve the purpose. Such self-serving statement alone would not give jurisdiction to the Tribunal to register original application or to decide the matter on merits.

13. When it was pointed as to whether we should call for the records from the Tribunal, and probe further as to how the respondents secured details of selection and Minutes, and the circumstances under which original applications were filed, the learned counsel submitted that the respondents have not filed the Minutes before the Tribunal. The learned counsel fairly submitted that he is not pressing the original applications and the respondents would be satisfied in case liberty is granted to file original applications after publishing the select list. The learned counsel made an endorsement to that effect.

14. In view of the endorsement so made, nothing survives further, for adjudication in the writ petitions.

15. The Original Applications in O.A.Nos.965 and 1614 of 2015 on the file of Central Administrative Tribunal are dismissed as withdrawn. The common order dated 10 February 2016 is set aside. It is open to the second respondent in the concerned writ petitions to challenge the select list, after publication, if they are so advised.

16. The writ petitions are disposed of, with no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1. The Registrar,
Central Administrative Tribunal,
Additional City Civil Court Buildings,
High Court Campus,
Madras Bench, Chennai.

2. The Secretary to Government,
Education Department,
Pondicherry 605 001.

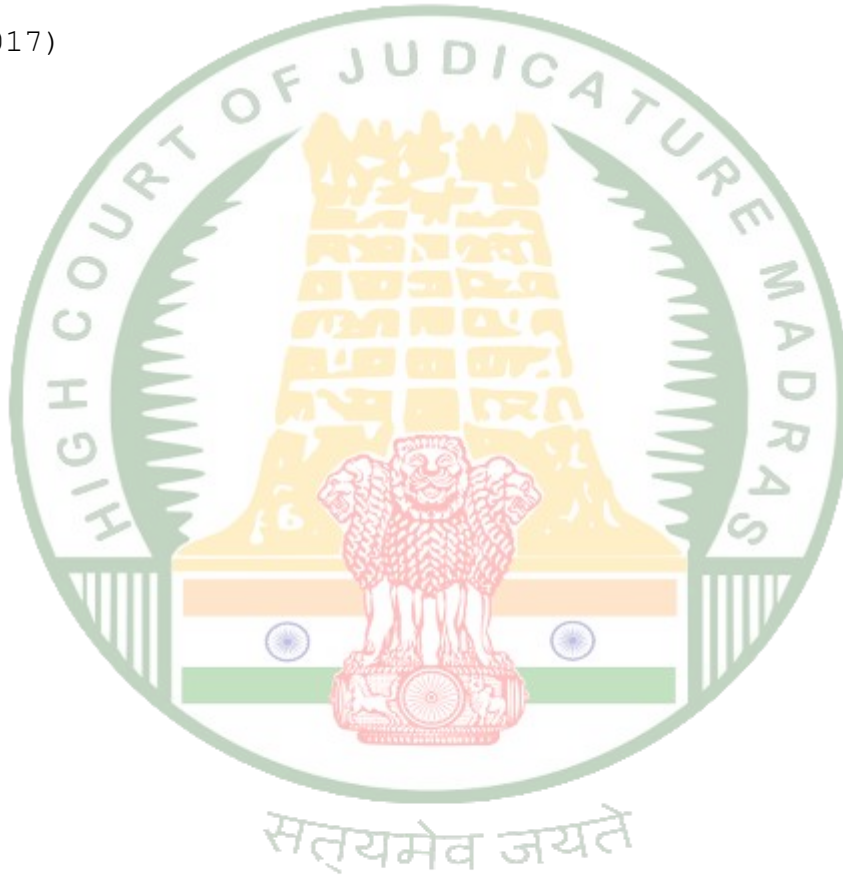
3. The Secretary to Government,
Department of Personnel & Training,
Central Secretariat,
New Delhi.

4.The Director of Education,
Directorate of School Education,
Government of Puducherry,
Perunthalaivar Kamarajar Centenary,
Educational Complex,
100 Feet Road, Anna Nagar,
Puducherry - 605 005.

+2ccs to Government Pleader Puducherry,Sr.14394,14392

W.P.Nos.43348 of 2016 and
971 of 2017

mg(co)
ss(22/3/2017)



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