



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.06.2017
CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

WEB COPY

W.P(MD) .No. 12442 of 2014
in
M.P(MD) Nos.1 and 2 of 2014

Harinikhasiri

... Petitioner

Vs.

- 1.The Chief Educational Officer,
Tuticorin Educational Division,
Tuticorin District.
- 2.The District Education Officer,
Office of the District Education,
Kovilpatti,
Tuticorin District.
- 3.The Secretary,
School committee,
Raja's Higher Secondary School,
Ettayapuram,
Tuticorin District.
- 4.The Headmistress,
Raja's Higher Secondary School,
Ettayapuram,
Tuticorin District.

5.J.Kavitha

... 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 the impugned order passed by the 4th respondent dated 22.07.2014 and quash the same and consequently directing the respondents 1 and 2 to direct the 3rd respondent to issue the order of appointment to the petitioner in the post of P.G.Assistant for Tamil.

For petitioner
For RR 1 and 2

: Ms.H.Yoheswari
: Mr.N.S.Karthikeyan
Additional Government Pleader

For RR 3 and 4

: Mr.R.Sundar Srinivasan

**ORDER**

This writ petition is filed challenging the call letter issued by the fourth respondent directing the petitioner to appear for the interview along with the documents and consequently to direct the respondents 1 and 2 in turn to direct the third respondent to issue an order of appointment to the petitioner in the post of P.G.Assistant for Tamil.

2. Heard the learned counsel for the parties and perused the records.

3. The case of the petitioner in the affidavit filed in support of the writ petition is that when a vacancy in Secondary Grade Teacher arose in the third respondent school, the petitioner was temporarily appointed by the third respondent in the said post. However, the third respondent assured the petitioner that shortly a P.G. vacancy in regular scale will arise and that he would appoint the petitioner in the said post. Though vacancy arose in the year 2011 in the post of P.G.Assistant for Tamil, the third respondent did not appoint the petitioner. Thereafter the petitioner came to know that the third respondent was going to conduct an interview for the post. This conduct of the third respondent is therefore against his own promise.

4.The learned counsel for the petitioner submitted that since the petitioner is working from 2009, she is entitled to get appointment and the respondent without appointing the petitioner cannot adopt a selection process by conducting interview and select anyone.

5. Sum and substance, the petitioner has approached this Court challenging the call letter on the ground that she deserves to get the post as she was working on temporary basis and that the third respondent cannot appoint anyone except the petitioner.

6. The contention of the learned counsel for the petitioner that the petitioner should be given appointment in view of the fact that the petitioner was appointed earlier on temporary basis has no legal basis. The respondent is required to appoint anyone only by following the process. Merely because the petitioner was in service for some time on temporary basis, the petitioner has no right to the post in which she was appointed temporarily for a certain period without resorting to the regular selection process.

7. Apart from the interview that is impugned in the present writ petition, the contesting respondent would further submit that interviews were conducted on two other occasions and that the petitioner has not chosen to participate in any of the interviews.

<https://hccases.ecourts.gov.in/hccservices/> the petitioner cannot be appreciated. If the petitioner is really interested in getting the job, she ought to have participated in the interviews.



8. Insisting the management to appoint her and creating problems to the management of the school as seen from the affidavit filed by the petitioner and the materials enclosed in the typeset filed along with the petition would only prompt this Court to condemn the conduct of the petitioner. The non-selection of the petitioner in this case cannot be found fault with. As a matter of fact the writ petition challenging the call letter is not maintainable. In the present case, the fifth respondent was appointed on 20.08.2014 in the said vacant post. The petitioner though obtained an order of stay on 22.08.2014, the appointment, which was made prior to the order of stay is not invalid. The appointment was after following due process. Even after the appointment of the fifth respondent, the petitioner has not challenged the appointment. Hence, this writ petition is devoid of any merits and the same is liable to be dismissed and accordingly, this Writ Petition is dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

9. It is submitted by the fifth respondent that in view of the pendency of this writ petition, the official respondents have not approved the appointment of the fifth respondent. Hence, the official respondents are directed to consider the proposal submitted by the third respondent for the approval of appointment of the fifth respondent and pass appropriate orders on merit and in accordance with law forthwith.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Chief Educational Officer,
Tuticorin Educational Division,
Tuticorin District.
2. The District Education Officer,
Office of the District Education,
Kovilpatti, Tuticorin District.

+1cc to M/S.R.Sundar Srinivasan, Advocate SR.No. 62675

+1cc to M/S.P.Mahendran, Advocate SR.No. 62315

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pjl