

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 09.05.2018

CORAM

THE HONOURABLE MR.JUSTICE **V. PARTHIBAN**

AND

THE HONOURABLE MR.JUSTICE **P.D.AUDIKESAVALU**

W.A.No.1109 of 2018 and
CMP No.1109 of 2018

D.Ganesan

...

Appellant

versus

1. The Director of Tamil Nadu,
Elementary Education,
Elementary Education Office,
DPI Compound,
Nungambakkam,
Chennai-600 006.

2. The District Elementary Education Officer,
Collectorate Building,
Salem-636 001.

3. Assistant Elementary Education Officer,
Attur-636 102,
Salem District.

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Respondents

Prayer: This Writ Appeal is filed under Clause 15 of the Letters Patent, seeking to set aside the order passed by the learned single Judge in W.P.No.11003/2018 dated 28.4.2018.

For Petitioner : Mr. D.Mutharasan

For Respondents: Mr.K.Karthikeyan, AGP

JUDGMENT

(Judgment of the Court was made by V.PARTHIBAN, J.)

This Writ Appeal has been directed against the order of the learned single Judge passed in in W.P.No.11003/2018 dated 28.4.2018, in and by which, the relief sought for by the writ petitioner to direct the respondents to conduct second counselling for filling up the vacancy of English Teacher, came to be rejected.

2. According to the appellant/writ petitioner, he is working as Headmaster, Panchayat Union Primary School at Mariamman Nagar, Attur Union, Salem District. On 01.01.2017, 3rd respondent prepared seniority list of candidates for counselling to be conducted in May 2017 for filling up of the post of English Teacher in Middle School, Attur Union. In the seniority list, the petitioner is ranked as No.1. Consequently, in May, 2017 general counselling was conducted, however, the petitioner was not

invited since there was no vacancy of English Teacher post in Middle School in Attur Union. However, subsequently, a vacancy arose since one P.Raman, English Teacher was promoted as DEO. Therefore, the writ petitioner sought for being posted in the said post by conducting a second counselling by the respondents. In this regard, it appears that a representation was also made by the writ petitioner. Since no response was evoking from the respondents, the writ petitioner has filed the Writ Petition.

3. The learned Judge, after considering the submissions made on behalf of the writ petitioner, dismissed the writ petition, holding that post or place can never be claimed as a matter of right and that counselling is not a part of service condition and it is just an opportunity provided to the employees to choose a place or post, if any vacancy arises. We do not find any infirmity in the order of the learned Judge to entertain the Writ Appeal. As and when any vacancy arises, it is for the Department to fill up the same after following procedural aspects and no aspirant/employee can compel the Department to conduct the counselling and fill up the vacancy.

4. Accordingly, the Writ Appeal fails and it is dismissed. No costs. Consequently, connected CMP is closed. However, this order would not be an impediment for 1st respondent to consider the representation made by the writ petitioner on 28.09.2017 in accordance with law.

(V.P.N.J.) (P.D.A.J.)

09.05.2018

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To

1. The Director of Tamil Nadu,
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Elementary Education Office,
DPI Compound,
Nungambakkam,
Chennai-600 006.

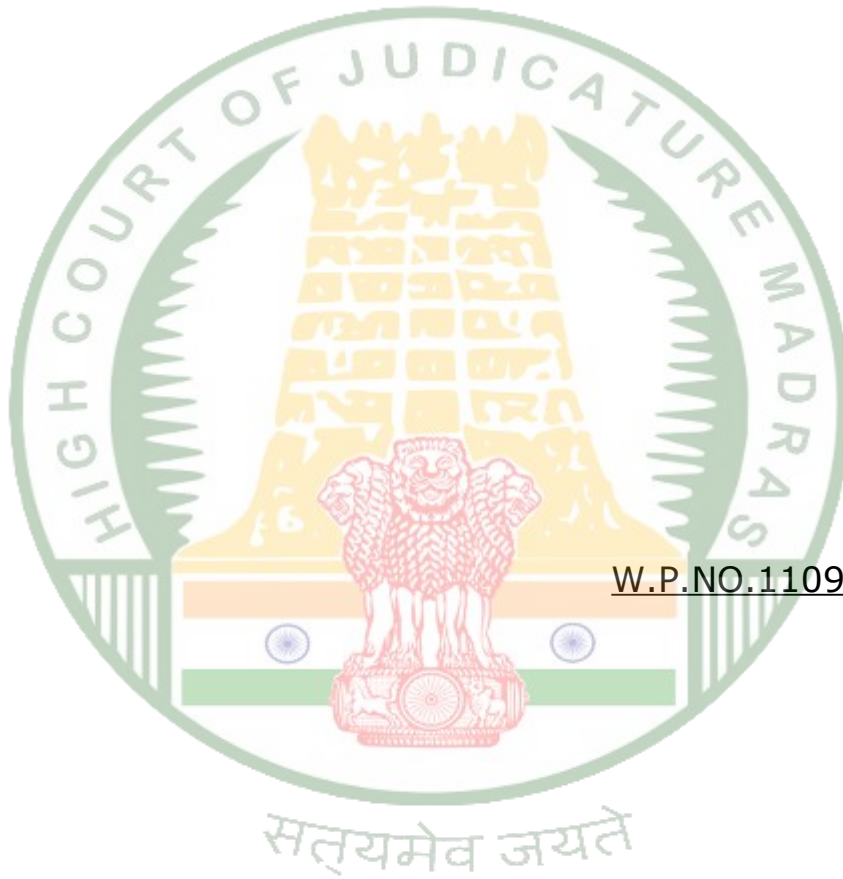
2. The District Elementary Education Officer,
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3. Assistant Elementary Education Officer,
Attur-636 102,
Salem District.

V.PARTHIBAN, J.

AND

P.D.AUDIKESAVALU, J.



W.P.NO.11098 of 2018

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