

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.A.No.1826 of 2018 and CMP.No.14647 of 2018

T.Gangeswari

... Appellant

Vs

1. The State rep. by the Secretary to
Government, School Education
Department, Fort St. George,
Chennai-9.

2. The Member-Secretary,
Teachers Recruitment Board,
E.V.K.Sampath Building,
DPI Compound,
College Road, Chennai-6.

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

4. M.K.Ravichandran

... Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent
against the order dated 28.07.2017 made in W.P.No.2765 of 2013
by a learned Single Judge.

Prayer in W.P.No.2765 of 2013:

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

For Appellant

:: Mr.P.Ganesan
for M/s.C.S.Associates

For Respondents

:: Mr.C.Munusamy,
Spl. Govt. Pleader for
R1 to 3

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 28.07.2017 made in W.P.No.2765 of 2013 by a learned Single Judge.

2. The Writ Petition has been filed seeking 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 her as B.T. Assistant based on her Employment Seniority within a stipulated time. The learned Single Judge by order dated 28.7.2017 has dismissed the said Writ Petition. Aggrieved over the same, the writ petitioner is before this Court with this Writ Appeal.

3. The matter is listed today under the caption, ''for admission''. Heard the learned Counsel for the appellant and the learned Special Government Pleader appearing for the respondents 1 to 3. We have also carefully perused the materials available on record.

4. The case of the appellant 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 4th respondent enrolled his name in the year 1993. Both of them have attended Certificate Verification before the 2nd respondent on 23.06.2012. Now the grievance of the appellant is that though she is senior to the 4th respondent, she was not selected for appointment as Graduate Assistant, whereas the 4th respondent was selected. Therefore, the appellant sent a representation to the 2nd respondent on 30.10.2012 seeking to select her in the place of the 4th respondent as B.T. Assistant and till date, no order has been passed on the said representation. But, in paragraph 9 of the order of the learned Single Judge, it has been held as follows: सत्यमेव जयते

''9. According to the 2nd 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 2nd 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.''

Though the stand of the Government is that the name of the appellant has already been considered, the learned Counsel for the appellant submits that neither such selection was made nor communicated to her and as such, the appellant is before this Court.

5. Considering the facts and circumstances of the matter, we hereby direct the respondents 2 and 3 to verify as to whether as stated by the 2nd respondent, earlier, the writ petitioner/appellant was selected for appointment as Graduate Assistant on 31.01.2012 and the same was communicated to her and she only had not accepted the said appointment. If it is so, reject the case of the appellant. But, if it is found that no such selection has been made and communicated to her at the relevant point of time, the respondents 2 and 3 are directed to consider the petitioner's representation dated 30.10.2012 to do the needful in accordance with law, within a period of three months from the date of receipt of a copy of this Order.

6. With the above observation and direction, the Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
School Education Department,
Fort St. George,
Chennai-9.

2. The Commissioner,
Employment and Training,
Commissioner Office,
Guindy, Chennai-32.

+1cc to M/S.C.S.Associates, Advocate Sr.59003
+1c c to the Government Pleader Sr.59301

W.A.No.1826/2018

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srg 14/09/2018