

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

W.A.No.215 of 2018 and C.M.P.No.1662 of 2018

1. The Director of School Education,
College Road, Chennai-6.
2. The Joint Director of School Education (Personnel),
College Road, Chennai-6.
3. The Chief Educational Officer,
Cuddalore.
4. The District Educational Officer,
Cuddalore. Appellants/Respondents

Vs

E.Amutha Respondent/Petitioner

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 16.11.2011 made in W.P.No.25091/2011 by a learned Single Judge.

WP.No.25091 of 2011: This Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus to Call for the records pertaining to the order of the 2nd respondent made in Na.Ka.No.29918/C3/E1/2009 dated 25.09.2009 in so far as condition No.3 alone and quash the same and consequently direct the respondents to place the petitioner as junior most B.T.Assistant below the approved probationer and above the unapproved probationer.

For Appellants :: Mr.K.Karthikeyan,
Government Advocate

For Respondent :: ...

JUDGMENT

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

The Writ Appeal is directed against the Order dated 16.11.2011 made in W.P.No.25091/2011 by a learned Single Judge.

2. The said Writ Petition has been filed seeking to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the 2nd respondent made in Na.Ka.No.29918/C3/E1/2009 dated 25.09.2009 insofar as condition No.3 alone is concerned and quash the same and consequently, direct the respondents to place the petitioner as junior most B.T. Assistant below the approved probationer and above the unapproved probationer.

3. The case of the petitioner/respondent herein is that she was appointed as Junior Graduate Assistant in the Elementary Education Service through the Teachers Recruitment Board in the year 2004, her services were regularised and her probation was also declared w.e.f. 31.5.2008 by order dated 12.6.2008 and on her request, by order dated 25.09.2009, she was transferred from Elementary Education Service to School Education Service and in pursuance of the same, she had joined School Education service on 2.3.2010. But the grievance of the petitioner/respondent herein is as per Condition No.3 of the impugned order, she will be placed as Junior Most Graduate Teacher. Hence, the Writ Petition came to be filed.

4. After hearing the rival submissions made on either side, the learned Single Judge of this Court disposed of the said writ petition with an observation to modify the Condition No.3 of the impugned order. Aggrieved over the same, the Department is before this Court with this Writ Appeal.

5. The matter is listed today under the caption, ''for admission''.

6. Heard the learned Counsel for the appellant and we have also gone through the materials placed on record including the order of the learned Single Judge.

7. On the face of the records, we find no infirmity in the order passed by the learned Single Judge of this Court. In this regard, it is relevant to extract paragraphs 4 and 5 of the above said order hereunder:

''4. Though the learned Special Government Pleader has submitted that since the transfer of the petitioner from Elementary Education Service to School Education Service is only on the request made by her, she has to be placed as junior-most in the category of Graduate Assistants; consequently, the writ petition has to be dismissed.

5. The above stand of the learned Special Government Pleader cannot be accepted for the reason that on the date of transfer, the petitioner was an approved probationer. At the most, she can be placed as the junior most in the category of approved probationers and she cannot be placed below the probationers. If she is placed below the probationers, that will amount to treating the un-equals as equals.''

8. In the result, the Writ Appeal fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Director of School Education,
College Road, Chennai-6.
2. The Joint Director of School Education (Personnel),
College Road, Chennai-6.
3. The Chief Educational Officer,
Cuddalore.
4. The District Educational Officer,
Cuddalore.

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