

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.6.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22233 of 2017

Sheeja K.P.

... Petitioner

Versus

- 1 The Union of India rep. by the
Secretary to Government
Education Department
Government of Puducherry Puducherry.
- 2 The Director of School Education
Education Department
Puducherry.
- 3 The Regional Administrator
Mahe.
- 4 The Deputy Director (Admn)
Directorate of School Education
Government of Puducherry Puducherry.
- 5 The Central Administrative Tribunal
(Madras Bench) Rep. by its Registrar
Chennai.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records on the file of the fifth respondent relating to the impugned order in O.A.No.1619 of 2013 dated 05.10.2016 and quash the same and consequently direct the respondents to appoint the petitioner to the post of Primary School Teacher with effect from 04.09.2013 with all backwages, service and seniority benefits and pay all the arrears to the petitioner.

For petitioner : Mr.D.Bharathachakravathy for
M/s.Kamalakumar

For RR1 to 4 : Mr.R.Syed Mustafa,
Special Government Pleader
(Puducherry)

ORDER

(Order of the court was made by HULUVADI G.RAMESH,J.)

Heard the learned counsel appearing for the parties.

2. The writ petition has been filed by the petitioner challenging the order passed by the Central Administrative Tribunal dismissing the Original Application filed by her seeking a direction to the respondents to appoint her in the post of Primary School Teacher with effect from 4.9.2013 with all backwages, service and seniority and other monetary benefits.

3. It appears that originally, eight posts of Primary School Teachers were notified, out of which four were earmarked for General candidates, 2 for MBC candidates, 1 for OBC candidates and 1 for Scheduled Caste Candidates, but, however, during the process of selection, after filling up four candidates in the General Quota and one candidate in OBC Quota, since no candidates were available under the MBC quota, one out of two posts reserved for MBC Quota was converted as OBC quota and it was filled up by an OBC candidate and therefore, totally, six posts were filled and one post reserved for MBC and one post reserved for SC remained vacant and the petitioner, being a candidate belonging to Backward Community, sought for consideration of her candidature as against the one post reserved for MBC quota. Since the said claim was not considered, she had approached the Central Administrative Tribunal and on rejection of her claim by the Tribunal, she had come up before this court by way of present writ petition.

4. Having heard the learned counsel appearing for the parties and perused the materials available on record, we find that her candidature could not be considered as against the post reserved for MBC due to the ban on de-reservation of reserved

vacancies in the case of direct recruitment and it appears that only in case of Group A service, where such post cannot be allowed to remain, the de-reservation is being resorted and moreover, as per the existing Recruitment Rules, the vacancies reserved, but, remained unfilled cannot be de-reserved, but, it has to be carried forward.

5. Therefore, we are of the view that it is left to the discretion of the Government to fill up the posts with other candidates available or else it is at the discretion of the Government to re-notify and to fill up the posts only by MBC or SC/ST and it has to be carried forward since it cannot be filled up without following the procedure as per the reservation rules. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ssk.

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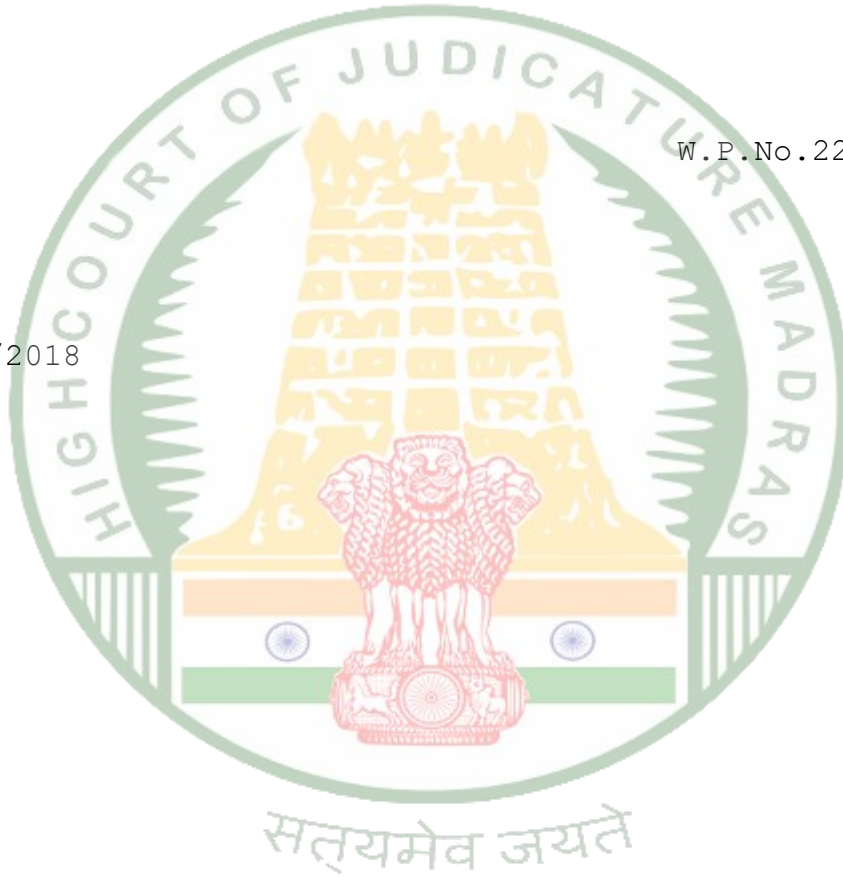
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5 The Registrar ,
Central Administrative Tribunal
(Madras Bench)
Chennai.

+lcc to the Government Pleader sr.36874
+lcc to Mr.R.Saravanan, Advocate Sr.37278

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rj[col]
srg 13/07/2018



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