

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2018

CORAM:

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.648 of 2013
and
M.P.No.1 of 2013

P.Kalaichelvi

.. Petitioner

Vs.

1. State of Tamilnadu,
rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai – 600 009.
2. The Chairman,
Teachers Recruitment Board,
DPI Compound,
College Road,
Chennai – 600 006.
3. The Director,
Professional Executive Employment Office,
Santhome, Chennai – 600 004.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the third respondent to assign the correct priority ex-serviceman seniority number as on 6.10.2010 by uploading the same in their website

by forwarding the petitioner's name to the second respondent for the appointment on seniority basis and by directing the second respondent to appoint the petitioner as PG Teacher in Chemistry.

For Petitioner : Mr.S.R.Balasubramaniam

For Respondents : Mr.K.Venkatramani
Addl. Advocate General
assisted by
Mrs.M.E.Raniselvam
Addl. Govt. Pleader

ORDER

This writ petition has been filed by the petitioner seeking a writ of mandamus directing the third respondent to assign correct priority Ex-serviceman seniority number to the petitioner as on 6.10.2010 by uploading the same in their website and to forward the petitioner's name to the second respondent for appointment on seniority basis and to direct the second respondent to appoint the petitioner as PG Teacher in Chemistry.

2. The petitioner studied M.Sc. (Chemistry) and B.Ed. Degree and registered his M.Sc. Degree on 15.9.2009 and B.Ed. Degree on 6.10.2010 in the office of the third respondent with

priority of Ex-servicemen as DEP/A Ex-serviceman seniority No.PM/21562/2011, dated 11.2.2011. The petitioner submitted the certificate of dependency dated 7.9.2010 on 6.10.2010 to the third respondent while registering her B.Ed. degree.

3. According to the petitioner, if the certificate of dependency of Ex-serviceman dated 7.9.2010 was taken into account on 6.10.2010 itself, the seniority of the petitioner would have been earlier in point of time and, therefore, she should have been assigned the correct priority in Ex-servicemen seniority. But, it is alleged that the third respondent erroneously assigned the seniority as PM/11562/2011, dated 11.2.2011.

4. On 21.4.2011, the third respondent forwarded a list of candidates to the second respondent for appointment of 137 PG Teachers in Chemistry, wherein the third respondent purposely omitted to include the name of the petitioner, though she was eligible for appointment as PG Teacher in Chemistry. Due to non-forwarding of the correct priority of Ex-serviceman seniority along with MBC & DNC category seniority in time, the petitioner has lost her chance to become a PG Teacher selected by the second

respondent on the basis of the seniority maintained by the third respondent. Despite several representations sent to the third respondent, till date the third respondent has not uploaded petitioner's priority Ex-servicemen seniority number in their website. The third respondent wrongly assigned the seniority on 11.2.2011 as PM/11560/2011 and the same was also uploaded in the third respondent website, which is not the correct seniority as on 6.10.2010.

5. The grievance of the petitioner is that due to fault of the third respondent in assigning the correct priority Ex-servicemen seniority to the petitioner and non-forwarding of her name as per MBC & DNC community seniority, as required by the second respondent, she lost her chance of appointment as PG Teacher. Therefore, the petitioner has filed the writ petition seeking the aforesaid relief.

6. Per contra, the case of the third respondent is that there was no delay in the registration of petitioner's priority certificate at the third respondent's office. The registrants, who registered dependent of Ex-serviceman priority, with the seniority

of B.Ed. up to 2.12.2009 were only sponsored for the post of Chemistry Post Graduate teacher. According to the third respondent, the petitioner who registered her B.Ed. degree with the third respondent on 6.10.2010 had not been sponsored for the reason that she is junior to other sponsored candidates. It is stated that the petitioner's registration on priority of dependent of Ex-serviceman could not have given any weightage in sponsoring her name to the Teachers Recruitment Board.

7. In the counter, the third respondent stated that the original file pertaining to the case on hand was damaged due to heavy flood which devastated the third respondent's office during December, 2015. Therefore, it is not possible to verify the statement of the petitioner with reference to the representations said to have been given by the petitioner.

8. According to the third respondent, the petitioner's name was classified under dependent of Ex-serviceman category from 11.2.2011 and it was written manually by the office of the third respondent on the employment identity of the petitioner and also her name was classified under priority category. Therefore,

there is no need to issue any direction to the third respondent to assign priority classification.

9. The case of the second respondent is that since the Director of Employment Exchange had not sponsored the name of the petitioner, she was not considered. It is stated that from the year 2011 – 2012 onwards, as per the policy decision, the mode of recruitment had been changed and recruitment through written examinations commenced. In the subsequent recruitments, the posts were filled on the basis of the marks obtained in the written competitive examination and weightage mark awarded after certificate verification, following communal reservation. In fact, the second respondent has conducted subsequent recruitments for the years 2011-2012; 2012-2013 and 2014-2015 and completed the selection process.

10. I heard Mr.S.R.Balasubramaniam, learned counsel for the petitioner and Mr.K.Venkatramani, learned Additional Advocate General assisted by Mrs.M.E.Raniselvam, learned Additional Government Pleader appearing for the respondents and also perused the materials available on record.

11. The grievance of the petitioner is that the priority certificate of dependent of Ex-servicemen submitted by the petitioner to the third respondent was not registered on 6.10.2010 and due to failure on the part of the third respondent in registering the same in time, she lost her chance to get appointment at the earlier point of time. According to the petitioner, her juniors got appointments.

12. It is admitted by the petitioner in her representation dated 1.10.2012 that she had registered the priority certificate once again on 11.2.2011 with the third respondent.

13. It is the say of the learned Additional Advocate General that normally the third respondent office will not give any seniority for the registration of the priority category and the seniority was given only for the registration of the qualification.

14. It is the pleaded on behalf of the third respondent that the third respondent was not assigning any date for the registration of the priority in the employment identity card

generated from the website. As per the records available in the office of the third respondent, the petitioner's name was classified under priority category of dependent of Ex-serviceman since 11.2.2011.

15. The third respondent contended that there is no procedure for assigning seniority number for the registration of the priority category during registration of the petitioner's priority under dependent of Ex-servicemen category.

16. It is evident that earlier the petitioner has not initiated any proceedings questioning the non-consideration of her name by the third respondent based upon the alleged certificate said to have been produced on 06.10.2010.

17. In the counter, the third respondent stated as under:

"7.The Professional and Executive Employment Office, Chennai-32 (3rd respondent) sponsored the eligible candidates on 21.04.2011 only. Even as per the petitioners statement if her priority was classified by the 3rd respondent on 06.10.2010 it would not have given any significance. Though the

petitioner's name was classified under priority category on 11.02.2011, if she came within the purview of sponsoring date as on 21.04.2011, her name could have been considered for sponsoring under sponsored candidates list. Since the petitioner had no seniority as on 21.04.2011 her name could not have been sponsored by the 3rd respondent Professional and Executive Employment Office, Chennai-32. Hence, it is submitted that there is no possibility of petitioner for the appointment of Post Graduate Chemistry Teacher since she had no seniority at the time of sponsoring."

18. From the above, it seen that the registration of the petitioner's priority of dependent of Ex-serviceman on 11.2.2011 does not affect either her seniority or her sponsoring, since the sponsoring date was 21.4.2011 and even as on that date, the petitioner's seniority fell short of the zone of consideration.

19. It is to be noted that while dismissing M.P.No.1 of 2013 dated 09.1.2013, this Court observed as under:

"The petitioner has already missed three chances and does not challenge the seniority list in the

Employment Exchange. There is no question of granting any interim order. Hence, M.P.No.1 of 2013 stands dismissed."

20. Assuming that the priority of the petitioner was classified on 06.10.2010, the name could not have been sponsored for the post of PG Teacher (Chemistry) as she had no seniority as on 21.4.2011.

21. As argued by the learned Additional Advocate General appearing for the respondents, and rightly, the averments of the petitioner are hypothetical and are a figment of imagination. There is no wrong on the part of the third respondent in not sponsoring the petitioner's name to the Teacher Recruitment Board.

22. As stated supra, since the name of the petitioner was classified under dependent of Ex-serviceman category since 11.02.2011 by the office of the third respondent on the employment identity card and also the name of the petitioner was classified under priority category, I find that there is no need

to issue any direction to the third respondent to assign priority classification as sought for in this writ petition. The writ petition, in my considered opinion, is devoid of merits.

23. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.06.2018

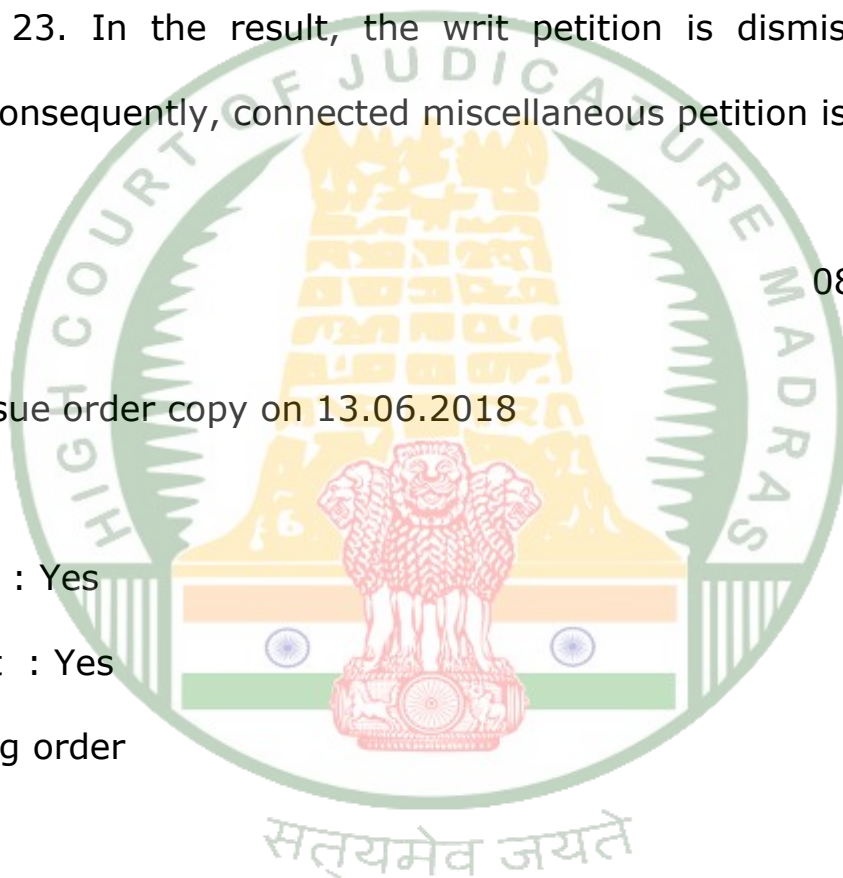
Note: Issue order copy on 13.06.2018

vs

Index : Yes

Internet : Yes

Speaking order



WEB COPY

To

1. The Secretary,
Department of School Education,
Fort St. George,
Chennai – 600 009.
2. The Chairman,
Teachers Recruitment Board,
DPI Compound,
College Road,
Chennai – 600 006.
3. The Director,
Professional Executive Employment Office,
Santhome, Chennai – 600 004.



WEB COPY

M.V.MURALIDARAN, J.

VS



Pre-delivery order made in
W.P.No.648 of 2013
and
M.P.No.1 of 2013

WEB COPY

08.06.2018