



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2018

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

W.A.[MD].No.112 of 2018 and
C.M.P.(MD).No.561 of 2018

1. The Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009.
2. The Member Secretary,
Teachers Recruitment Board,
Fourth Floor, EVK Sampath Building,
Chennai 600 006.
3. The Director,
Elementary Education Department,
College Road, Chennai 600 006.
4. The Director,
Teacher Training Institutions,
College Road, Chennai 600 006.
5. The Joint Director [Personnel],
Directorate of Government Examinations,
Chennai 600 006.

: Appellants

Vs.

1. P.Ilayaraja
2. The District Employment Officer,
Dindigul.
3. The Principal,
Umayal Teacher Training Institute,
Alli Nagaram, Theni District 625 531.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent appeal against the order dated 30.01.2017 made in W.P.(MD).No.6267 of 2013, on the file of this Court.

Prayer in WP(MD)No. 6267/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARI or any other writ calling for the records of the impugned proceedings in Na.Ka.No.2323/Aa4/2012 dated



13.03.2013, passed by the 2nd respondent and quash the same as illegal, arbitrary and against the natural justice and equity and consequently to direct the respondents 1 to 4 to appoint the petitioner to the post of Second Grade Teacher under the category of schedule Caste Ex-Servicemen Quota at par with similarly appointed candidates within stipulated time.

For Appellants : Mr.S.Srimathy
Special Government Pleader
For respondent No.1 : Mr.P.Krishnasamy

JUDGMENT

[Judgment of the Court was delivered by M.M.SUNDRESH, J.]

This Writ Appeal is directed against the order dated 30.01.2017 made in W.P.(MD).No.6267 of 2013, by which while setting aside the order dated 13.03.2013, the second appellant herein was directed to call the first respondent/writ petitioner for certificate verification and appointment as Secondary Grade Teacher, if he is otherwise eligible.

2. The Writ Petition was filed on the premise that though the similarly placed persons, like the first respondent/writ petitioner, were allowed to register, in view of the certificate having obtained by him earlier, the first respondent/writ petitioner was unable do so, because of the belated issuance of certificate. The issue is with respect to the cut-off date fixed for calling names from the Employment Exchange to the post of Secondary Grade Teacher.

3. The fact that the first respondent/writ petitioner is eligible to be considered is not in dispute. Unfortunately, before the learned Single Judge, no counter affidavit has been filed denying the allegations and the averments made in the affidavit filed in support of the Writ Petition. We are not inclined to appreciate this submission at this point of time. As stated above, it is not as if the first respondent/writ petitioner is not eligible to be considered. Furthermore, the learned Single Judge has passed the order, which is a qualified one stating, subject to the eligibility and other qualifications. In any case, though a seat has been reserved, during the pendency of the Writ Petition, the first respondent/writ petitioner is unable to get any benefit, since he is yet to get his appointment. Any right would accrue only on the date of appointment. The first respondent/writ petitioner has already suffered sufficiently. Therefore, we are not inclined to interfere with the order passed by the learned Single Judge and the Writ Appeal is dismissed.



4. After passing of the above Judgment, the learned Special Government Pleader would submit that the appointments are made through the Teachers Recruitment Board. In view of the same, the appellants are directed to interact with the Teachers Recruitment Board and to see to it that the orders are given effect to by appointing the first respondent/writ petitioner in the seat, which has been reserved during the pendency of the Writ Petition. However, the appointment will only be prospective, as indicated above. This direction is issued, since the right of the first respondent/writ petitioner has accrued on the date of the order of the learned Single Judge and therefore, he cannot be denied the benefit merely on the ground that now recruitment is being made by the Teachers Recruitment Board, which is a subsequent event. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Secretary to Government,
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+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 85182
+ 1 CC TO Mr.P.KRISHNASAMY, ADVOCATE IN SR No. 85100

NB

TE/SKN/SAR-1 : 03/10/2018 : 3P/8C

JUDGMENT MADE IN
W.A.[MD].No.112 of 2018 and
C.M.P. (MD) .No.561 of 2018
18.09.2018