



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.1039 of 2012

P.Wesley Durairaj

.. Petitioner

Vs.

- 1.The Additional Chief Secretary to Government,
School Education Department,
Secretariat,
Chennai - 600 009.
- 2.The Principal Secretary / State Project Director,
Sarva Shiksha Abhiyan (SSA),
D.P.I. Complex, College Road,
Chennai - 600 006.
- 3.The Director of School Education,
D.P.I. Complex, College Road,
Chennai - 600 006.
- 4.The Director of Primary Education,
D.P.I. Complex, College Road,
Chennai - 600 006.
- 5.The Chief Educational Officer,
Thiruvallur District,
Thiruvallur.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus directing the respondents to include the post of Part Time Instructor in Woodwork for recruitment under Part Time Instructor of Work Education in G.O.Ms.No.177 School Education (C2) Department dated 11.11.2011 and consequently appoint the petitioner as Part Time Instructors in Woodwork based on the said G.O. with attended benefits.

For Petitioner : Mr.D.Prabhu Mukunth Arunkumar
For Respondents: Mr.P.Raja (Government Advocate)



O R D E R

The present Writ Petition is filed for issuance of a writ of Mandamus directing the respondents to include the post of Part Time Instructor in Woodwork for recruitment under Part Time Instructor of Work Education in G.O.Ms.No.177 School Education (C2) Department dated 11.11.2011 and consequently appoint the petitioner as Part Time Instructor in Woodwork based on the said G.O. with attendant benefits.

2. According to the petitioner, he studied "Craft Instructors Course Certificate in Woodwork" obtained from Teachers College, Saidapet, between the year 1988 - 1990. He had registered his Course certificate with employment exchange and renewing regularly. He is eligible for the appointment of Work Education (Wood Work) in Schools. Only Schools in the State of Tamil Nadu, Craft Course (Vocational Course) i.e., Drawing, Physical Education, Music, Weaving, Wood work and Agriculture are being offered as an addition of curriculum. To offer the said technical education to the students, full time / part time Craft Instructors have been appointed based on the qualification prescribed as per G.O.Ms.No.753 Education (M1) Department dated 16.07.1985.

3. According to the petitioner, the second respondent has issued instructions from time to time to fill up the vacant posts of Special Teachers (Craft Instructors) only for Drawing, Physical Education, Music. The post of Special Teachers (Craft Instructors) in Agriculture, Wood work and Weaving have not been filled up on the ground that there was a ban order. The qualified Craft Instructors in Agriculture, Weaving, Wood work, etc., filed O.A.No.1187 of 2000 etc. batch before the Tamil Nadu Administrative Tribunal and the Tamil Nadu Administrative Tribunal by the order dated 17.11.2003, passed an order that as and when vacancies arise, the respondents shall call for list of candidates from employment exchange and provide them employment depending upon the vacancies. Now the Government has announced the appointment of 16,549 Part Time Special Teachers during the year 2011-2012. Out of which, 5904 posts have been allotted for Work Education. In the said publication, the appointment of Part Time Craft Instructors in Agriculture, Wood Work and Weaving are not included. The petitioner has submitted his application to the fifth respondent. The non inclusion of the post of Craft Instructors in Agriculture, Weaving, Wood Work is arbitrary and contrary to Article 21 of the Constitution of India and hence, he has filed the present Writ Petition for the relief sought for.

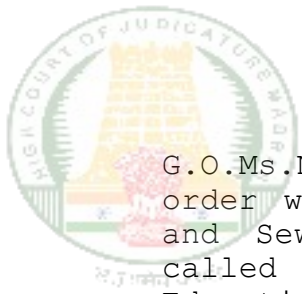


4.The fifth respondent filed counter affidavit and denied all the averments made in the affidavit filed in support of the above Writ Petition. Mr.P.Raja, learned Government Advocate appearing for the respondents contended that the Government has taken into consideration all the aspects and also the requirements of various Departments and issued instructions in accordance with established norms. 16549 posts were created as per the priority and requirement as per the recommendation of the Project Approval Board established under the Sarva Shiksha Abhiyan Scheme. The Government has taken a policy decision to create post in a specific scheme and as per the requirement, the petitioner has no statutory or constitutional right to seek appointment for the post which is never called for. The petitioner has not challenged the Government Order and hence no directions can be given to accommodate him under the Government Order when there is no provision available under the Government Order. The learned Government Advocate appearing for the respondents in support of his contention, relied on the order of this Court dated 06.09.2012 made in W.P.(MD).No.722 of 2012, wherein in paragraph No.20, it has been held as follows:

"...20.This Court, in exercise of writ jurisdiction, cannot issue any direction to the respondents to create a particular post or to exclude a particular post, as it is the prerogative of the State Government to sanction and fill up the posts as per the requirements. The Courts have no role to play in this process."

5.Heard the learned counsel appearing for the petitioner as well as Mr.P.Raja, learned Government Advocate appearing for the respondents and perused the entire materials on record.

6.From the materials available on record, it is seen that the petitioner is seeking direction to the respondents to include the post of Part Time Instructor in Wood work for recruitment under Part Time Instructor of Work Education in G.O.Ms.No.177 School Education (C2) Department dated 11.11.2011 and consequently appoint the petitioner as Part Time Instructor in Woodwork based on the said G.O. with attendant benefits. The Government has included vocational courses in Schools like Drawing, Physical Education, Music, Weaving, Wood work and Agriculture. To instruct the students, part time / full time Craft Instructors were appointed. Subsequently, the Government has imposed a ban on such appointment. The Government by



G.O.Ms.No.104 (D1) Department dated 12.07.2002 relaxed the ban order with regard to appointment of Craft Instructors in Music and Sewing. The Government by publication dated 24.11.2011, called for appointment of Instructors in Drawing, Physical Education and Technical Education, totaling 16549 posts. Except the above three categories, no category of Special Teachers for Vocational Courses were sought to be appointed. According to the petitioner, non-inclusion of appointment of Special Teachers as Craft Teachers in Agriculture, Wood work and Weaving is arbitrary and violation of Article 21 of the Constitution of India.

7. On the other hand, it is the contention of the learned Government Advocate appearing for the respondents that the Government has taken a policy decision to appoint only Special Teachers mentioned therein as per the requirement of various Department and as per the priority. From the stand of the respondents, it is clear that the Government has taken a policy decision to appoint Part Time Instructors numbering 16549 for the category mentioned therein. The Wood work was not included as the same is not in the priority list and there is no requirement of appointment of said Instructors.

8. According to the petitioner, the Special Instructors in Wood work, Agriculture and Weaving have not been included in view of the ban order imposed by the Government for Special appointment. The petitioner has not challenged the said Government Order imposing ban and when the Government has not called for Special Instructors in Agriculture, Wood work and Weaving, the petitioner has no vested right for the relief sought for in the Writ Petition as held by this Court in W.P.No.722 of 2012. Hence, this Court cannot issue any direction to the respondents to create a particular post or to exclude a particular post.

9. In the result, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Additional Chief Secretary to Government,
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Secretariat, Chennai - 600 009.



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Chennai - 600 006.

5.The Chief Educational Officer,
Thiruvallur District, Thiruvallur.

+lcc to Mr.D.Prabhu Mukunth Arunkumar, Advocate sr.47587
+lcc to Government Pleader sr.48606

W.P.No.1039 of 2012

pm(co)
nr 20/08/2019