

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2019

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.20169 of 2008
and
M.P.Nos.3 of 2009 & 1 of 2011

Tmt.V.S.RajalakshmiPetitioner

Vs

- 1.Director of Elementary Education,
Chennai - 6.
 - 2.District Elementary Educational Officer,
Kancheepuram,
Kancheepuram District.
 - 3.Commissioner,
Tambaram Municipality,
Tambaram, Chennai - 45.
 - 4.Tmt.N.Vimalakumari,
B.T.Assistant,
Municipal Middle School,
Old Tambaram,
Tambaram Municipality,
Chitlapakkam Union.
 - 5.Director of School Education,
Chennai - 6.
- ...Respondents

(5th respondent impleaded as per order
of this Court dated 30.07.2010 in
M.P.No.1 of 2010 in W.P.No.20169 of 2008)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings Na.Ka.No.2521/A5/2006, dated 16.9.2006 and O.Mu.No.2681/Aa1/07 dated 7.9.2007 and Na.Ka.No.1434/B1/08, dated 10.6.2008 and quash the same and direct the respondents to promote the petitioner as B.T.Assistant (English) and confer all the consequential benefits.

For Petitioner : Mr.V.P.Aravind
for M/s.Ojas Law Firm
For Respondents : Mr.A.Raja Perumal
Additional Government Pleader
for R1, R2 & R5
Mr.G.Sankaran for R3
Mr.S.Kamadevan for R4

O R D E R

This writ petition has been filed to quash the proceedings in Na.Ka.No.2521/A5/2006, dated 16.9.2006, O.Mu.No.2681/Aa1/07 dated 7.9.2007 and Na.Ka.No.1434/B1/08, dated 10.6.2008 issued by the second respondent and also to direct the respondents to promote the petitioner as B.T.Assistant (English) and to confer all consequential benefits.

2. The case of the writ petitioner is that while, she was working as Secondary Grade Teacher in Tambaram Municipal Elementary School, promotion panel as on 2006-2007 was drawn by the respondents to the post of B.T.Assistant and the petitioner was placed at Sl.No.11 in the aforesaid panel. The petitioner has been fully qualified for promotion to the post of B.T.Assistant (English) and B.T.Assistant (Tamil). It is further stated that one post of B.T.Assistant (English) was vacant as on 18.9.2006 in Tambaram Municipal Middle School and there were no qualified persons to the said post, therefore, the petitioner ought to have been promoted to the aforesaid post. However, the second respondent had passed an impugned order dated 16.9.2006 and transferred the fourth respondent, who was working as B.T.Assistant (English) in the Katangolathur Panchayat Union School to Tambaram Municipal Middle School, Old Tambaram. It is further stated that both the Panchayat Union and Municipality are having separate units for the purpose of promotion, transfer and appointment. However, the fourth respondent was transferred from Panchayat Union to Municipal service to fill up the said B.T.Assistant post. Thus, the writ petitioner being prejudiced by the transfer order of the second respondent by filling up the post of B.T.Assistant in the respondents' Municipal School.

3. In the counter affidavit filed by the second respondent, it is stated that as per G.O.Ms.No.174 Education Department, dated 15.9.2006, qualified secondary grade teachers may be promoted to the post of B.T.Assistants by following the seniority of such qualified hands, treating one Panchayat union as single unit for the purpose of such promotion. The said Government Order was communicated to all the District Elementary Educational Officers. In the meanwhile, there was a vacancy arose in the Tambaram Municipal Middle School, Old Tambaram for the post of B.T.Assistant (English) and that the fourth respondent, who was working as

B.T.Assistant (English) in the Katangolathur Panchayat Union School at Karuneelam Middle School had applied for transfer to Tambaram Municipal Middle School, Old Tambaram and she was transferred and joined in the said school on 16.09.2006. It is further stated that the said Government Order issued on 15.9.2006, which was communicated to all District Elementary Educational Officers only on 21.11.2006. Therefore, the petitioner's request for promotion could not be considered by the respondents. The petitioner has qualified herself in B.A. (English), B.A.(Tamil) and B.Ed degree and also qualified in M.A.(English) in 1996 and M.A.(Tamil) in 2007. The seniority list was prepared and the petitioner, among the other qualified persons, has eligible for promotion to various categories i.e. Middle school B.T Headmasters, Elementary School Headmasters, Tamil Pandits, B.T.Assistants. It is further stated that in certain units i.e. Panchayat Union and Municipality has no sanctioned posts. According to the respondents, the petitioner was placed at Sl.No.11 in the seniority panel, which was drawn by the respondents, however, there were no sanctioned posts in the Tambaram Municipality to give promotion to the petitioner.

4. According to the learned counsel for the respondents, the Government Order in G.O.Ms.No.174, Education Department had issued on 15.9.2006, in the meantime, the fourth respondent was appeared for counseling and joined duty in the said station on the same day.

5. Further, it is contended by the learned counsel for the fourth respondent that as per G.O.Ms.No.174, Education Department, dated 15.9.2006, qualified secondary grade teachers to be promoted to the extent of 50% of the vacancies to the post of B.T.Assistants by following the seniority of such qualified hands, for the purpose of such promotions.

6. In the case on hand, there is only one post vacant and the said post was filled up by passing transfer order. It seems that there is some force in the contention of the learned counsel for the respondents that the writ petitioner was placed in the seniority for promotion to the post of B.T.Assistant based on her qualification. But, at the same time, there is only one sanctioned post vacant and the same was filled up by passing transfer order to the fourth respondent. Hence, the petitioner's request was not considered for giving promotion to the post of B.T.Assistant from Middle School. As rightly stated in the counter affidavit that there is no post sanctioned in the Tambaram Municipality, under promotion turn as per the Government Order.

7. It is also brought to the notice of this Court by the learned counsel on either side that subsequently based on the seniority list drawn by the respondents, the writ petitioner is now promoted and working in the promotional post.

8. In view of the above submissions and in the light of the discussions made in paragraph No.6 of the order, I do not find any infirmity in the impugned order passed by the second respondent at that point of time. Further, due to subsequent developments, the writ petitioner is also given promotion. Hence, the writ petition is devoid of merits and the same is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Director of Elementary Education,
Chennai - 6.
- 2.The District Elementary Educational Officer,
Kancheepuram,
Kancheepuram District.
- 3.The Commissioner,
Tambaram Municipality,
Tambaram, Chennai - 45.
- 4.The Director of School Education,
Chennai - 6.

+1 cc to Government Pleader Sr.No. 90716

सत्यमेव जयते

W.P.No.20169 of 2008
and

M.P.Nos.3 of 2009 & 1 of 2011

A.SK(11/12/2019)

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