

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.1393 of 2018

M.Sathiyamoorthy

...Petitioner

Vs

1. The State Rep. by
The Additional Director General of Police-Cum-
Inspector General of Prisoner,
Prison Department, Chennai-600 008.

2. The Superintendent,
Central Prison, Salem City. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ or order or orders or direction particularly in the nature of Writ of Mandamus, directing the respondents to dispose the representation dated 19.12.2017 and consequently issue appointment order to the petitioner for the post of Secondary Grade Teacher in the 2nd respondent prison pursuant to the advertisement dated 06.04.2015 and the selection process conducted on 22.04.2015.

For Petitioner :M/s.Dr.S.Manoharan

For Respondents 1 & 2: Mr.P.Rajalakshmi
Addl. Government Pleade

सत्यमेव जयते
O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to dispose of the representation dated 19.12.2017 and appoint the writ petitioner in the post of Secondary Grade Teacher in Central Prison, Salem City.

2. The learned counsel for the writ petitioner states that the writ petitioner is possessing B.A., degree and Diploma in Teacher Training and further, the writ petitioner has passed the

Teacher Eligibility Test. Thus, the writ petitioner is entitled for the appointment to the post of Secondary Grade Teacher. The learned counsel for the writ petitioner states that the writ petitioner was orally selected for appointment to the post of Secondary Grade Teacher in Central Prison, Chennai City. However, no order of appointment has been issued, thus the writ petitioner submitted a representation to appoint him in the said post of Secondary Grade Teacher. The representation submitted is yet to be considered.

3. Even for issuing a direction to consider the representation, the writ petitioner has to establish a legal right. It is a pre-condition that the writ petitioner who is approaching this Court for an appropriate relief, must establish a legal right. In the absence of any such right, no relief can be granted in a writ petition under Article 226 of the Constitution of India.

4. Mere submission of representation to the Authority concerned will not confer any right on the writ petitioner to secure appointment by obtaining a direction from this Court to consider his representation. To consider the representation also, the writ petitioner has to establish a legal right. In the present case on hand, the writ petitioner is already working in Central Prison, Salem City as Warden. The claim of the writ petitioner is that he appeared in the process of selection for appointment to the post of Secondary Grade Teacher and no appointment order has been issued.

5. The process of selection to the post of Secondary Grade Teacher can be challenged if there is any illegality, malpractice or corrupt activities. In the absence of any such irregularity or illegality, this Court would not issue any direction to issue an order of appointment to the writ petitioner or to consider the representation submitted by the writ petitioner in this regard, to appoint him to the post of Secondary Grade Teacher.

6. However, the learned counsel for the writ petitioner admits that, nobody has been appointed in one post of Secondary Grade Teacher and the other post of Secondary Grade Teacher was filled up by way of transfer.

7. This being the factum, this Court is of the considered opinion that the writ petitioner is not established even a

semblance of legal right so as to consider the relief. If at all the writ petitioner has to secure the post of Secondary Grade Teacher, he has to undergo the process of selection and only if an order of appointment is issued based on the selection, the right will accrue to the writ petitioner and not otherwise. Accordingly, the writ petitioner is devoid on merits and stands dismissed. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pkn

To

1. The Additional Director General of Police-Cum-Inspector General of Prisoner, Prison Department, Chennai-600 008.
2. The Superintendent, Central Prison, Salem City.

+1cc to Dr.S.Manoharan, Advocate Sr.12423
+1cc to the Government Pleader Sr.12887

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