

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2019

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THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P.Nos.14954 and 14955 of 2018

and

WMP.Nos. 17692, 17693, 17695 and 17696 of 2018

V.P.Asokan

.... Petitioner in W.P.No.14954/2018

V.Boopalan

... Petitioner in W.P.No.14955/2018

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary
School Education Department
Fort St. George,
Chennai-600 009.

2.The Director of School Education
DPI Campus, College Road
Chennai- 600 006.

3.The Chief Educational Officer
Thiruvannamalai. Respondents in both WPs.

COMMON PRAYER : Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in relation to the impugned order passed in Na.Ka.No.12128/C2/E1/2016 dated 08.03.2018, quash the same and consequently direct the respondents to appoint the petitioners in the post of P.G. Assistant (History) within 2% set apart for the non-teaching staff of the education department vide G.O.Ms.No.21, dated 02.11.2011 by including the name of the petitioners in the panel for the year 2015-2016 without insisting upon TET qualification, within the time frame to be fixed by this Court.

In both WPs.

For Petitioners : Ms.Dakshayani Reddy

For Respondents : Ms.P.Kavitha
Government Advocate

C O M M O N O R D E R

Writ petitions are filed for issuance of Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in relation to the impugned order passed in Na.Ka.No.1218/C2/E1/2016 dated 08.03.2018, quash the same and consequently direct the respondents to appoint the petitioners in the post of P.G. Assistant (History) within 2% set apart for the non-teaching staff of the education department vide G.O.Ms.No.21, dated 02.11.2011 by including the name of the petitioners in the panel for the year 2015-2016 without insisting upon TET qualification, within the time frame to be fixed by this Court.

2.Heard the learned counsel appearing for the petitioners as well as the learned Government Advocate appearing for the respondents.

3.The case of the petitioners is that they have been initially appointed as Junior Assistants in Education Department in the year 2004. The Government has issued an order in G.O. (4D).No.21 School Education Department, dated 02.11.2011 reserving 2% of vacancies in the post of P.G. Assistant to those who are qualified for appointment and work in the Ministerial Service.

4. According to the petitioners, they are fully qualified for the appointment of the post of P.G.Assistant. Insofar as the post of P.G.Assistant is concerned, it is governed by the Special Rules for Tamil Nadu Higher Secondary Educational Service notified in G.O.Ms.No.720, Education Department, dated 28.04.1981. As per the Government Order, 50% of the vacancies have to be filled up by promotion. While so, the Government has issued G.O.(4D).No.21, School Education Department, dated 02.11.2011 in and by which, it has been directed that 2% of vacancies out of 50% vacancies have to be earmarked for promotion to be filled up by considering eligible persons working in the Ministerial Service in Education Department by following method as prescribed in the G.O.Ms.No.175, School Education (M2) Department, dated 19.07.2007 issued for filling up the post of P.G.Assistant.

5. According to the Petitioners, pursuant to the G.O.(4D). No.21, School Education Department, dated 02.11.2011, the 3rd respondent has drawn a panel of eligible persons working in Ministerial Service vide proceedings dated 11.05.2013 to fill up 2% vacancies to the post of P.G.Assistant during the year 2013-14 and consequently 23 Ministerial Staff working in School

Education Department qualified with P.G. Degree and B.Ed have also been given promotion by recruitment by transfer to the post of P.G.Assistant.

6. The grievances of the petitioners is that though 2% of vacancies have been mentioned in every panel year till 2017, no panel has been drawn from the year 2015 onwards which has resulted in non implementation of the Government Order. Since no panel has been drawn, the petitioners have not been promoted to the post of P.G.Assistant in respect of 2% vacancies earmarked as per the said Government Order. The petitioners have also submitted all the relevant particulars through the Chief Educational Officer for the purpose of appointment to the post of P.G.Assistant. Since no action was taken, it appears that the petitioners along with other persons have also filed a writ petition. This Court directed the respondents to consider the representations of the petitioners and pass appropriate orders. The respondents vide impugned order dated 08.03.2018 rejected the representations of the petitioners on the ground that they had not undergone Teacher Eligibility Test as per G.O.Ms.No.181, dated 15.11.2011. Challenging the impugned order dated 08.03.2018, the present writ petitions are filed by the petitioners.

7. However, the learned Counsel for the petitioners would submit that by virtue of G.O.(4D).No.21 School Education Department dated 02.11.2011, the petitioners who are initially appointed in Ministerial Service are eligible to be promoted to the post of P.G.Assistant in respect of 2% vacancies earmarked, since they are possessing requisite qualifications of P.G.Degree and B.Ed Degree and that the respondents have implemented the above said Government Order by drawing panel in the year 2013 by effecting promotions in respect of 23 candidates. However, from the year 2015 onwards no panel has been drawn and no promotion in the post of P.G.Assistant has been given. Hence, the learned counsel would implore this Court to direct the respondents to implement G.O.(4D).No.21 School Education Department dated 02.11.2011, filling up 2% vacancies by recruitment by transfer by drawing panel for the year 2019-2020.

8. Learned Government Advocate appearing for the respondents has conceded the claim of the petitioners by virtue of G.O.(4D).No.21 School Education Department dated 02.11.2011, that 2% of vacancies have to be earmarked and to be filled up by recruitment by transfer from among the eligible persons in Ministerial Service. She also submitted that, this Court may direct the respondents to consider the claim of the petitioners in accordance with law.

9. Considering the facts and circumstances of the case, as well as the submissions made by the learned counsel for the petitioners and in view of the fact that from 2015 onwards, no panel has been drawn to fill up 2% vacancies in the post of P.G.Assistant from among the eligible persons of Ministerial Service by implementation of G.O.(4D).No.21 School Education Department dated 02.11.2011, the respondents are directed to draw the panel forthwith for the year 2019-2020 and take appropriate steps to fill up the vacancies for the post of P.G.Assistant in Higher Secondary Education Service from among the eligible persons in Ministerial Service in implementation of G.O.(4D).No.21, School Education Department, dated 02.11.2011 within a period of eight weeks from the date of receipt of a copy of this order.

10. Accordingly, the Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The State of Tamil Nadu
Rep. by its Secretary
School Education Department
Fort St. George,
Chennai-600 009.
- 2.The Director of School Education
DPI Campus, College Road
Chennai- 600 006.

- 3.The Chief Educational Officer
Thiruvannamalai.

+3cc to Ms.Dakshayani Reddy, Advocate SR.92051

W.P.Nos.14954 and 14955 of 2018

RR(CO)
CB(20/12/2019)