

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.09.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.21369 of 2019

&

W.M.P.Nos.20585 & 20586 of 2019

M.P.Ruth Shanthi

..Petitioner

vs

1.State of Tamilnadu represented by
Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009.

2.The Director of Government Examination,
College Road, Chennai 600 006.

3.The Commissioner,
Office of the Physically challenged Candidates,
Triplicane, Chennai 600 005.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 2nd respondent made in Government letter No/106938/E1-1/2018 dated 12.07.2019 and quash the same and consequently accommodate the petitioner in the vacancy in the cadre of Assistant Director of Examination.

For Petitioner : Mr.S.Mahesh

For Respondents : Mr.C.Munusamy
Special Government Pleader

O R D E R

The prayer sought for is to call for the records on the file of the 2nd respondent made in Government letter No/106938/E1-1/2018 dated 12.07.2019 and quash the same and consequently accommodate the petitioner in the vacancy in the

cadre of Assistant Director of Examination.

2. The case of the petitioner is that she was appointed in the post of Junior Assistant through the TNPSC on merits under the 3% quota reserved for Physically Challenged candidates and she had joined the service on 31.01.1997. Thereafter, she was promoted to the post of Assistant on 21.06.2000 and retained in the same place. Again the petitioner was promoted to the post of Superintendent on 12.04.2012 and retained in the same office.

3. It is the further case of the petitioner that from the date of the said promotion till this date, she has been serving in the said post without any blemish on her part. While so, under the head of the 2nd respondent, the 1st respondent proposed to start the Directorate of Government Examination under the head of the Assistant Director in all the 32 Revenue Districts in the State. As the senior most person, she was also in the list of promotees to the post of Assistant Director and by order of the 2nd respondent dated 12.07.2019, she was promoted to the post of Assistant Director and posted at Madurai in the office of the Assistant Director of Examination, Madurai. This posting order was passed following the Government Order G.O.Ms.124 dated 11.07.2019. The petitioner already anticipating transfer on promotion, submitted a detailed representation dated 14.08.2018 to the 2nd respondent and representation dated 24.12.2018 to the 3rd respondent who is the Commissioner of Physically challenged candidates in the light of the Government Order in letter M.S.No.92(S)09, dated 22.07.20109 requesting that she shall be posted in a place nearer to her native place. However till date, her representations were not considered. Hence the Writ Petition is filed before this Court.

4. Mr.S.Mahesh, learned counsel appearing on behalf of the petitioner would submit that at the time of her promotion, no Assistant Director post was vacant in Chennai and subsequently, two posts fell vacant in Chennai. Hence the petitioner made a request to the Commissioner to retain her in the very same office in the vacant post.

5. Mr.C.Munusamy, learned Special Government Pleader appearing for the respondents would submit that as per Government letter (Ms) No.92/S/09, dated 22.07.2009, the petitioner was transferred based on Administrative reasons and the disciplinary proceedings will not attract the concessions ordered in item (i) of the above said Government Order that the said Government Order will be applicable to the Government servants in Groups - A to D and not to the physically challenged persons.

6. Considering the fact that at the time of the transfer of

the petitioner, there were no posts vacant and subsequently, two posts fell vacant in the same office, I am inclined to permit the petitioner to make representation to the respondents to retain her in the same office. The respondents, if such representation made, shall pass appropriate orders on merits and in accordance with law, within a period of 12 weeks from the date of receipt of copy of this order.

7. The Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.State of Tamilnadu represented by
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- 2.The Director of Government Examination,
College Road, Chennai 600 006.
- 3.The Commissioner,
Office of the Physically challenged Candidates,
Triplicane, Chennai 600 005.

+1cc to Mr.S.Mahesh Advocate, S.R.No.78378

+1cc to the Spl Government Pleader, S.R.No.79306

RP(CO)

CB(17/09/2019)

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