



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

**W.A. (MD) .No.4 of 2019
against WP(MD) No.9314 of 2017
and
C.M.P. (MD.No.35 of 2019**

C.T.Aruljitha ... Appellant/Petitioner

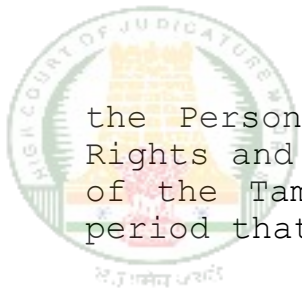
Vs.

- 1.The Director,
Ministry of Social Justice and Empowerment,
No.636, 'A', Wing, Shastri Bhawan,
Dr.Rajendra Prasad Road,
New Delhi-110 001.
- 2.The State of Tamil Nadu,
Rep by its Secretary to Government,
School Education Department,
Secretariat,
Chennai-9.
- 3.The Director of School Education,
O/o.The Directorate of School Education,
DPI Campus, College Road,
Chennai-6.
- 4.The Chief Educational Officer,
O/o.The Chief Educational Office,
Nagercoil,
Kanyakumari District. ..Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.(MD).No.9314 of 2017 dated 03.10.2018.

Prayer in WP(MD) . 9314/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus or any other appropriate writ or order or direction in the nature of writ directing the 3rd respondent to appoint the petitioner as Lab Assistant taking into account of the marks secured by the petitioner under disability quota in terms of Section 33 of



the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and in terms of Rule 22(aa) of the Tamil Nadu State and Subordinate Service Rules within the period that may be stipulated by this Honble Court

For Appellant : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates
For R2 to R4 : M/s.S.Srimathy
Special Government Pleader
For R1 : Mr.S.Jeyasingh,
Central Government Standing Counsel

JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.C.Venkatesh Kumar, learned counsel appearing for the appellant and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondent Nos.2 to 4.

2.This appeal is filed by the respondent/writ petitioner against the order passed in W.P.(MD).No.9314 of 2017 dated 03.10.2018.

3.The appellant is the writ petitioner, who filed the writ petition for directing the third respondent to appoint him as Lab Assistant, taking into account the marks secured by him under disability quota in terms of Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and in terms of Rule 22(aa) of the Tamil Nadu State and Subordinate Service Rules, within a time frame. The prayer sought for in the writ petition was not granted. However, the Writ Court found that there can be swapping of the post between the different categories of differently abled persons ie., a vacancy, which has been reserved for the physically challenged person, can be permitted to be swapped with any other physical disability, provided there is no disqualification for such post being filled up with the person suffering from such disability. The Writ Court after denying the relief sought for in the writ petition, directed to consider the appellant in future appointment by granting relaxation in age.

4.The learned counsel for the appellant submitted that out of three posts, which have been reserved for physically challenged persons, one has already been filled up and there are two vacancies. However, since the relief sought for in the writ petition was not granted by the Writ Court and the reasons assigned are perfectly justified, we cannot take a different view in the matter. However, we direct the respondents 2 to 4 to consider the case of the appellant, whether she could be accommodated in the existing



vacancies reserved for physically challenged, if there is no other legal impediment. The above direction shall be considered within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the above direction, this Writ Appeal stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Secretary to Government,
State of Tamil Nadu,
School Education Department,
Secretariat,
Chennai-9.

2. The Director of School Education,
O/o. The Directorate of School Education,
DPI Campus, College Road,
Chennai-6.

3. The Chief Educational Officer,
O/o. The Chief Educational Office,
Nagercoil,
Kanyakumari District.

+1cc to M/s. Special Government Pleader, SR.No.
+1 cc M/s. AJMAL ASSOCIATES, Advocate, SR.No. 86796
+1 cc Mr. S. JEYASINGH, Advocate, SR.No. 86837

**W.A. (MD) .No. 4 of 2019
and**

**C.M.P. (MD.No.35 of 2019
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KK/SAR/04.11.2019/3P-7C/