

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.2334, 2335, 2861 & 2862 of 2012
and

M.P.Nos.2 & 2 of 2012 in W.P.Nos.2861 & 2862 of 2012

D.Siva

... Petitioner in W.P.Nos.2334 & 2862 of 2012

C.Venkatraman

... Petitioner in W.P.Nos.2335 & 2861 of 2012

vs.

- 1.The Government of Tamil Nadu,
Rep by its Secretary,
School Education Department,
Fort Saint George, Chennai - 600 009.
 - 2.The Principal Secretary/State Project Director (SSA),
Fort Saint George,
Chennai - 600 009.
 - 3.The Chief Educational Officer-Chairperson(SSA),
Tiruvannamalai District,
Thiyagi Annamalaipillai Hr.Sec.School Campus,
Tiruvannamalai - 600 009.
 - 4.The Chief Educational Officer(SSA),
Member Secretary,
Town Hall Middle School Campus,
Tiruvannamalai - 600 601.
 - 5.The District Elementary Educational Officer,
No.11, 5th Street, Gandhi Nagar,
Tiruvannamalai - 600 601.
- ... Respondents in all W.Ps.

Writ Petition No.2334 of 2012 filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the 3rd, 4th and 5th respondents to consider the petitioner's Application (Application serial no.7) for Interview and for Appointment of Part-Time Instructor in Horticulture in Work Education in Tiruvannamalai District.

Writ Petition No.2335 of 2012 filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the 3rd, 4th and 5th respondents to consider the petitioner's Application (Application serial no.8) for Interview and for Appointment of Part-Time Instructor in Horticulture in Work Education in Tiruvannamalai District.

Writ Petition No.2861 of 2012 filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the respondents to implement the State Administrative Tribunal Order in O.A.No.2445/2002 in part-time Instructor selection in Work Education in Tiruvannamalai District and consider the petitioner's Application (Application serial No.8) for Interview and for appointment of Part-Time Instructor in Horticulture in Work Education.

Writ Petition No.2862 of 2012 filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the respondents to implement the State Administrative Tribunal Order in O.A.No.2447/2002 in part-time Instructor selection in Work Education in Tiruvannamalai District and consider the petitioner's Application (Application serial No.7) for Interview and for appointment of Part-Time Instructor in Horticulture in Work Education.

For Petitioner in all W.Ps. : No appearance

For Respondents in all W.Ps. : Mrs.P.Kavitha,
Government Advocate

COMMON ORDER

Petitioners have come up with the present Writ Petitions seeking a direction to the Respondents to implement the State Administrative Tribunal's Order in part-time Instructor selection in Work Education in Tiruvannamalai District and consider their Applications for interview and for appointment of Part-Time Instructor in Horticulture in Work Education.

2. When the Writ Petitions were taken up for hearing, learned Government Advocate appearing for the Respondents submitted that, counter has been filed in all the Writ Petitions. Placing reliance on G.O.(Ms) No.177, School Education (C2) Department, dated 11.11.2011, she further submitted that, the issue in question is squarely covered by an order dated 06.09.2012 passed by this Court in W.P.(MD) No.722 of 2012. For better appreciation, relevant paragraphs of the said judgment are extracted hereunder:

"16. The G.O.(Ms)No.177 School Education (C2) Department, dated 11.11.2011, on which reliance has been placed, itself shows that no post of Agriculture Instructor was advertised or sanctioned by the Project Approval Board. The petitioners, therefore, can have no grievance to non-inclusion of Agriculture in the advertisement. The petitioners also cannot have any grievance for not being called for interview, as they are not holding the qualification for the posts advertised by the Government.

18. This contention of the learned Counsel for the petitioners, is again misconceived. The petitioners have not been disqualified for being appointed as Part Time Instructors to allege discrimination. The petitioners were found ineligible to compete for this selection for want of vacancies in Agriculture. As and when the vacancies in Agriculture are advertised, the petitioners will be entitled to compete for the posts, where candidates with other qualifications in the Art and Music will not be eligible.

19. It is the settled law that equality cannot be claimed by inequality. The petitioners on the basis of having the qualification of T.T.C in Agriculture, cannot claim discrimination for appointment as Drawing Instructor with those who hold T.T.C in Drawing as they form a separate class.

20. This Court, in exercise of writ jurisdiction, cannot issue any direction to the respondents to create a particular post or to exclude a particular post, as it is the prerogative of the State Government to sanction and fill up the posts as per the requirements. The Courts have no role to play in this process.

21. The writ petition therefore not only lacks merit but is totally misconceived.

22. No merit. Dismissed."

3. In the light of the said decision, this Court is of the view that, no direction can be issued to the Respondents to create a particular post or to exclude a particular post, as it is the prerogative of the State Government to sanction and fill up the posts as per the requirements.

4. Accordingly, these Writ Petitions are dismissed, as they are devoid of merits. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

- 1.The Secretary,
Government of Tamil Nadu,
School Education Department,
Fort Saint George, Chennai - 600 009.
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srg 21/08/2020