

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2020

Coram:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

Writ Appeal No.3057 of 2019
and
C.M.P.No.19530 of 2019

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat,
Fort St.George, Chennai-600 009.
2. The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
3. The Chief Educational Officer,
Virudhunagar District. Appellants/Respondents

Vs.

1. R.Radhika, W/o N.K.Nagarajan,
Lavenders Ladies Hostel,
Saidapet Road, Kodambakkam,
Chennai-600 026.
2. The Commissioner,
Chennai Corporation,
Ripon Building, Chennai-600 003.
3. The Deputy Commissioner (Education),
Chennai Corporation,
Ripon Building,
Chennai-600 003. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 24.07.2018 passed by the learned Single
Judge in W.P.No.28233 of 2016 on the file of this Court.

Prayer in W.P.No.28233 of 2016:

To directing the respondents 1 to 5 to for with consider the claim of the petitioner for transfer and absorption into the Tamil Nadu Higher Secondary Educational Services from Corporation without insisting upon No Objection Certificate from 4th and 5th respondents and to consequently direct the respondents to extend all service benefits of promotion on par with her Teachers Recruitment Board Batch mates.

For appellants : Mr.C.Munusamy, Spl.G.P.

For respondents : Mr.L.Chandrakumar for R-1

JUDGMENT

(The Judgment of the Court was delivered by R.Subbiah, J)

The appeal is heard through video-conferencing.

2. The present Writ Appeal has been filed challenging the order dated 24.07.2018 passed by the learned Single Judge, allowing the Writ Petition No.28233 of 2016 filed by the first respondent herein, praying for issuance of a Writ of Mandamus to direct the appellants 1 to 3 and respondents 2 and 3 herein to forthwith consider the claim of the writ petitioner for transfer and absorption into the Tamil Nadu Higher Secondary Educational Services from Corporation without insisting upon No Objection Certificate from respondents 2 and 3 herein and to consequently direct the appellants and the respondents 2 and 3 to extend all service benefits of promotion on par with her Teachers Recruitment Board (TRB) batch-mates.

3. The case of the first respondent-writ petitioner is that she applied to the post of P.G. Assistant (English) pursuant to the Notification/Advertisement inviting the applications for direct recruitment to the post of P.G. Assistants in Tamil Nadu Higher Secondary Education Service coming under the School Education Department, notifying the vacancies to the post of P.G. Assistants in various subjects. After completion of selection process, she was selected as P.G. Assistant (English), but she was allotted in the School coming under the domain of the Corporation and accordingly, she was issued with an order of appointment dated 04.02.2013 along with others and she had also joined in the School in the said post of P.G. Assistant (English).

4. The Writ Petition had been filed by the first respondent/writ petitioner raising various contentions with a prayer to direct the appellants and the respondents 2 and 3

herein to restore her back to the Tamil Nadu Higher Secondary Education Service in School Education Department as P.G. Assistant in the Government Higher Secondary School based on the selection conducted by the TRB.

5. The learned Single Judge allowed the Writ Petition in W.P.No.28233 of 2016 with a direction to the appellants and respondents 2 and 3 herein to transfer the first respondent/writ petitioner to the Tamil Nadu Higher Secondary Educational Services of the School Education Department as P.G. Assistant in the vacancy available in the Government Higher Secondary Schools on the basis of the selection pursuant to the Notification dated 28.02.2012, with all attendant benefits like seniority, etc. It was further directed that the transfer as prayed for in the Writ Petition shall be granted by the appellants and respondents 2 and 3 herein/competent authorities, within a period of eight weeks from the date of receipt of a copy of the order. The third appellant was also directed to pass appropriate orders in order to enable the Government to effect transfer as prayed for in the Writ Petition. Aggrieved by the same, the present Writ Appeal is filed by the appellants/State.

6. The learned Special Government Pleader appearing for the appellants, on instructions, submitted that if any vacancy arises in the schools under the School Education Department and if the teachers seeking transfer from Corporation Schools are willing to forego their seniority in the transferred department, their request will be considered individually based on merits and in extraneous circumstances provided both the departments give their explicit consent.

7. The learned counsel appearing for the first respondent/writ petitioner submitted that the writ petitioner is ready to forego her seniority in the transferred Department. To that effect, the first respondent/writ petitioner had also filed an affidavit dated 22.12.2020 before this Court, relevant portion of the same reads as follows:

"6. I submit that in the said circumstances, having regard to the fact that I am a lady working in Corporation School, having one school going daughter, husband having his avocation of livelihood in and around Virudhunagar along with aged parents-in-law who are all residing in my native place. I once again reiterate and undertake to forego my seniority in the post of P.G. Assistant (English) for getting transfer back to School Education Department, to be posted in any one of the

vacancy available in any Government Higher Secondary School in Virudhunagar District."

8. In view of the above submission made by the learned Special Government Pleader, to which, the writ petitioner had filed the above affidavit as extracted above, foregoing her seniority, this Court allows the Writ Appeal to the extent that the first respondent/writ petitioner be posted in any one of the vacancy available in any Government Higher Secondary School in and around Virudhunagar District, as requested by the first respondent/writ petitioner in her above affidavit. No costs. Consequently, C.M.P. is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
School Education Department,
Secretariat,
Fort St.George, Chennai-600 009.
2. The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
3. The Chief Educational Officer,
Virudhunagar District.
4. The Commissioner,
Chennai Corporation,
Ripon Building, Chennai-600 003.
5. The Deputy Commissioner (Education),
Chennai Corporation,
Ripon Building, Chennai-600 003.

+1cc to Mr.L.Chandrakumar, Advocate Sr.42916

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srg 20/01/2021