

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.35617 of 2019

M.Saravanan

Petitioner

vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai - 600 009.
2. The Director of Elementary Education,
DPI Campus,
Chennai - 600 006.
3. The Secretary,
Tamil Nadu Teachers Recruitment Board,
EVK Sampath Maligai, DPI Compound,
Chennai - 600 006.
4. The Commissioner/Director,
Most Backward & De-notified Communities Welfare,
Chennai - 600 005.
5. The Joint Director,
Kallar Reclamation,
Madurai - 20.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent No.1 to transfer the petitioner in the post of Secondary Grade Teacher in any of the Kallar Reclamation School in view of the TET Weightage Mark in the light of the judgment of this Court in W.A.(MD)No.1708 to 1710 of 2018 dated 24.01.2019.

For Petitioner : Mr.K.Thilageswaran

For Respondents: Mrs.V.Annalakshmi
Government Advocate

O R D E R

This writ petition has been filed for issuance of writ of mandamus directing the 1st respondent to transfer the

petitioner in the post of Secondary Grade Teacher in any of the Kallar Reclamation School.

2.The case of the petitioner is that he secured 120 marks in TET examination and he is having a weightage mark of 77.79 and even when he was called for certificate verification, the petitioner had expressed his willingness to work in any of the Kallar Reclamation School. However, the petitioner was appointed as Secondary Grade Teacher in the Panchayat Union Primary School in the year 2014. The petitioner has made a representation to the respondents to consider the request made by the petitioner to transfer him to the Kallar Reclamation School at any place since, the same was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

3.Mr.K.Thilageswaran, learned counsel appearing on behalf of the petitioner submitted that the issue involved in this case is already covered by the earlier judgment passed by this Court. The learned counsel brought to the notice of this Court, the order passed by this Court in W.P.(MD)Nos.17164, 17292 & 17293 of 2014, dated 30.08.2017. The relevant portions in the judgment is extracted hereunder:

5. The learned Additional Government Pleader appearing for the respondents filed a detailed counter affidavit as well as additional counter affidavit, wherein it is stated as follows:

5.1. The Board has issued provisional selection list for Secondary Grade Teacher to the Directorate of Elementary Education on 27.08.2014, only on the basis of the marks secured by the candidates. Admittedly, the petitioners herein have secured higher marks. Therefore, they were provisionally selected to the Directorate of Elementary Education. Moreover, the petitioners have not exercised their option for selection to the Kallar Reclamation Schools, at the time of certificate verification or during the subsequent selection process.

5.2. Secondly, the petitioners have also joined duty in the schools under the control of Directorate of Elementary Education, without any protest and thereupon, receiving their salary for all these years.

5.3. Thirdly, the petitioners are serving all along in the Elementary Education Department, only as an afterthought, they came to the Court, therefore, their prayer should be rejected.

6. This Court, is unable to accept the said contentions for the following reasons:

6.1. When the notification dated 06.08.2014, was issued by the Teachers Recruitment Board, the respondents informed that as per G.O.No.95, BC, MBC and MW (BC3) Department, dated 03.08.2012, the vacancies of Department of BC, MBC & Minorities Welfare, are being filled from the eligible candidates belonging to Hindu Piramalai-Kallar communities on preferential basis. Therefore, all those TET Paper-I qualified candidates, belonging to Hindu Piramalai-Kallar communities and willing to work in the above Department Schools were advised to come to the clarification centre with original community certificate to exercise their option. Accordingly, the petitioners have exercised their option to work in the schools, run by the Kallar Reclamation Department, which is supported by the postal receipt dated 04.09.2014. While so, it is not known, how the respondents took a stand that the petitioners have not exercised their option.

6.2. Secondly, as alleged by the petitioners, while accommodating the candidates who secured lesser marks in the schools run by the Kallar Reclamation Department and accommodating the petitioners herein in the Directorate of Elementary Education, who have not only secured higher marks, but also exercised their option as called for, is not at all acceptable. Moreover, the respondents could not take a stand that the petitioners herein failed to give their option to work in the Kallar Reclamation Schools, since they have exercised their option, which is very well supported with sufficient evidence, as I mentioned above.

4.The learned counsel further submitted that this judgment was taken on appeal before the Division Bench of this Court in W.A.(MD) Nos.1708 to 1710 of 2018, dated 24.01.201 and the Division Bench dismissed all the writ appeals. The learned counsel further brought to the notice of this Court, the subsequent order passed by this Court in W.P.(MD)Nos.13189 & 13190 of 2019, dated 12.06.2019, wherein this Court had issued similar directions following the earlier orders passed by this Court.

5.Per contra, Mrs.V.Annalakshmi, learned Government Advocate appearing on behalf of the respondents submitted that the claim of the petitioner will be considered based on the

representation made by him only based on the vacancy that is available as on today. The learned counsel submitted that even the orders that have been cited by the learned counsel for the petitioner, made it very clear that the concerned petitioners will be accommodated in the schools run by the Kallar Reclamation Department only based on the vacancies available.

6.This Court has carefully considered the submissions made on either side and also the materials available on record.

7.This Court need not delve deep into the issue that has been raised in the writ petition since, it is squarely covered by the judgments that have been cited by the learned counsel for the petitioner. The petitioner is also similarly placed and he is entitled to be considered for the relief sought for by him based on the weightage marks which was secured by him in the TET examination and the option given by him at the inception where he expressed his willingness to work in any of the Kallar Reclamation School.

8.This writ petition is disposed of with a direction to the 1st respondent to consider the representation made by the petitioner on 15.07.2019 in line with the earlier orders passed by this Court and which have been cited supra and pass appropriate orders within a period of six weeks from the date of receipt of copy of this order and accommodate the petitioner in any of the School run by the Kallar Reclamation Department based on the vacancy position. It is made clear that if the petitioner is accommodated in any of the School run by the Kallar Reclamation Department, he shall not claim for any seniority in the post of Secondary Grade Teacher in future. No Costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai - 600 009.

2. The Director of Elementary Education,
DPI Campus,
Chennai - 600 006.

3. The Secretary,
Tamil Nadu Teachers Recruitment Board,
EVK Sampath Maligai, DPI Compound,
Chennai - 600 006.
4. The Commissioner/Director,
Most Backward & De-notified Communities Welfare,
Chennai - 600 005.
5. The Joint Director,
Kallar Reclamation,
Madurai - 20.
6. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Thilegeswaran, Advocate, S.R.No. 181
+1cc to the Government Pleader, S.R.No. 1362

W.P No.35617 of 2019

BP(CO)
GN(19/02/2020)



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