



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD)No.8534 of 2012

and

M.P (MD)Nos.1 & 2 of 2012

WEB COPY

V.Mariyammal

... Petitioner

Vs.

1.The District Adi-Dravidar and Tribal Welfare Officer,
Tirunelveli District,
Tirunelveli.

2.The Commissioner,
Adi Dravidar Welfare Department,
Chepauk,
Chennai.

... Respondents

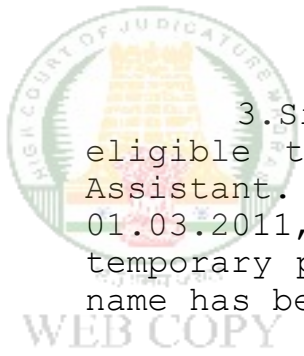
PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by the first respondent in Na.Ka.A3/68151/2010-3 dated 23.04.2012 and quash the same and consequently direct the first respondent to promote the petitioner as Graduate matron with effect from 13.12.2011 the date on which her junior was promoted.

For Petitioner	: Mr.D.Sasikumar
For Respondents	: Mr.C.Ramar, Additional Government Pleader.

ORDER

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent in Na.Ka.A3/68151/2010-3 dated 23.04.2012 and to quash the same and consequently directing the first respondent to promote her as Graduate matron with effect from the date on which ie., 13.12.2011 her junior was promoted.

2.The learned counsel appearing for the petitioner submitted that the petitioner was appointed as a Secondary Grade Teacher by the first respondent on 03.09.1998 through Employment Exchange and she has acquired B.Lit (Tamil) in the year 2006 and M.A (Tamil) in the year 2008. At present, the petitioner was working as matron at Government ADW Hostel, Nallammalpuram, Tirunelveli Division.



3. Since the petitioner has requisite qualification, she was eligible to be promoted as graduate matron in the cadre of B.T Assistant. The first respondent also drawn up a seniority list as on 01.03.2011, in which her name has been found in 29th place and in the temporary panel for promotion prepared by the first respondent, her name has been found in 12th place.

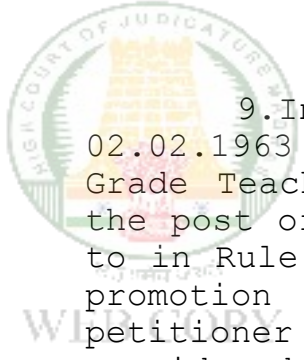
4. While the things stood thus, one P. Gandhi, who was kept in 21st place in the temporary panel drawn by the first respondent on 07.07.2011 and who was junior to her, has filed a Writ Petition in W.P(MD)No.10431 of 2011 before this Court seeking a direction, directing the first respondent to promote him as warden in the category of B.T Assistant and this Court by order dated 15.11.2011 directed the second respondent to consider and pass orders promoting the petitioner in any of the above mentioned available vacancies within a period of three months. In view of the above said order, the first respondent has promoted the said Gandhi as graduate warden overlooking seniority of the petitioner.

5. In the mean while, the petitioner sent a representation dated 15.12.2011 to the respondents to promote him as Graduate matron in any one of the vacancies available in ADW Government Hostel, Tirunelveli. Since no has been taken by the respondents, the petitioner filed a Writ Petition in W.P(MD)No.1903 of 2012 and this Court by order dated 20.02.2012, directed the second respondent to consider his representation dated 20.02.2012 and pass appropriate orders in accordance with law, but, the first respondent has passed the impugned order dated 23.04.2012. Challenging the same, the petitioner has filed the Writ Petition.

6. The first respondent has filed the counter-affidavit and stated that there are two categories to consider for promotion to the post of BT Assistant such as Primary School Headmaster and Secondary Grade Teacher. It is also further stated that since the petitioner did not possess B.Ed Degree as required for the next promotion to the post of BT Assistant / Graduate matron during the period 2011-12, her name was not considered and there is no illegality or infirmity in the order passed by the impugned order and prayed for dismissal of the Writ Petition.

7. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader for the respondents.

8. It is seen from the records that the petitioner's name was included in the panel list for promotion to the post of Graduate matron / BT Assistant, but she was not permitted so and her junior, one P. Gandhi was promoted to the post of BT Assistant on 13.12.2011. Aggrieved over the same, the petitioner filed a Writ Petition in W.P (MD)No.1903 of 2012 seeking to consider her representation dated 20.02.2012 and this Court by order dated 20.02.2012 directed the respondent to consider the grievance of the petitioner.



9. In the meantime, the Government issued G.O.Ms.No.405, dated 02.02.1963 stating that Primary School Headmaster and Secondary Grade Teacher shall possess B.Ed Degree for the next promotion to the post of BT Assistant / Graduate matron as per annexure referred to in Rule 6 Class-1. While considering the eligible candidates for promotion to the post of BT Assistant for the year 2011, the petitioner did not possess B.Ed Degree and as such, her name was not considered. Further, the petitioner completed B.Ed Degree only in the month of December, 2012. As there was no vacancy for the year 2013 and 2014, no promotion was given to the post of BT Assistant and the petitioner's case was not considered.

10. In the year 2015, Kala, Marimuthu, Kanagavelraj and Shanmugaraj were given promotion to the post of BT Assistant based on their subject wise seniority. The petitioner was given promotion to the post of Primary School Headmaster on 05.02.2016 based on the seniority maintained in the cadre of Secondary Grade Teacher and she is serving as Primary School Headmaster, Government Adi Dravidar Welfare School, Thulukkuvarpatti, Tirunelveli District. The petitioner is a Tamil Literature and her name is in Serial No.4 of the seniority list maintained in the cadre of Primary School Headmaster. The Government issued G.O.Ms.No.171, Department of School Education, dated 18.08.2008, stating that while promoting the Primary School Headmaster and Secondary School Teacher to the post of BT Assistant, the ratio viz., 15:15:20:20:30 has been followed by the competent authority for the following subjects in Tamil, History, Maths, English and Science for the eligible candidates. As per the said G.O.Ms.No.405, dated 02.02.1963 and G.O.Ms.No.171 dated 18.08.2008, the petitioner will be promoted as per the seniority list.

11. The learned Additional Government Pleader appearing for the respondents has produced a copy of the proceedings in Na.Ka.No.A3/19885/2019, dated 25.02.2020 issued by the first respondent and submitted that the petitioner's case will be considered based on seniority and merit in near future.

12. In view of the above, this Court is of the view that the first respondent may be directed to consider the case of the petitioner and accordingly, the first respondent is directed to consider the case of the petitioner, if she is otherwise found eligible, for promotion to the post of B.T Assistant.

13. With these observations, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)



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To

WEB COPY

1. The District Adi-Dravidar and Tribal Welfare Officer,
Tirunelveli District,
Tirunelveli.

2. The Commissioner,
Adi Dravidar Welfare Department,
Chepauk,
Chennai.

+1 CC to Mr.D.SASIKUMAR, Advocate (SR-12147[F] dated 17/03/2020)

Order made in
W.P. (MD) No.8534 of 2012
16.03.2020

VB(08.05.2020) 4P 4C