



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2020

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM**

W.P.(MD)No.20878 of 2013

WEB COPY

R.Gnanapaul Raj

... Petitioner

Vs.

1.The Director of School Education,
College Road,
Chennai - 600 006.

2.The Joint Director of School Education (personnel),
College Road,
Chennai - 600 006.

3.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the orders passed by the 2nd respondent in Na.Ka.No.19051/C2/E3/2010, dated 06.05.2013, quash the same and consequently direct the respondents to promote the petitioner as B.T.Assistant and post him at any one of the vacancies at Kanyakumari District.

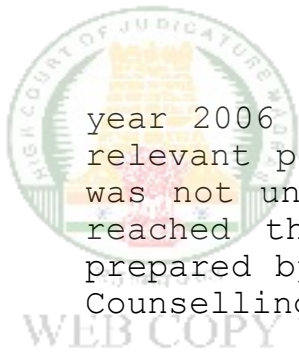
For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.J.Gunaseelan Muthiah
Addl.Govt.Pleader

O R D E R

The order of rejection passed by the 2nd respondent dated 06.05.2013, rejecting the claim of the writ petitioner for grant of promotion to the post of B.T.Assistant is under challenge in the present writ petition and a further direction is sought for directing the 2nd respondent to promote the petitioner as B.T.Assistant.

2. The writ petitioner was appointed as Secondary Grade Teacher by the Teachers Recruitment Board on 01.08.1995 and thereafter, transferred to Government Higher Secondary School, Thiruvithancode, on 09.09.1996. Subsequently, he was deployed to Government Higher Secondary School, Gujiliamparai, Dindigul District, on 20.06.2002 and thereafter, transferred to Government High School, Elappavilai, Kanyakumari District. The petitioner states that he fully qualified for appointment to the post of B.T.Assistant in History during the



year 2006 itself. Due to non-availability of the vacancy during the relevant point of time in the year 2006 he was not promoted and he was not under zone of consideration. During the year 2010, he was reached the zone of consideration. On 01.01.2010, a panel was prepared by the respondents. The petitioner was placed in S.No.40. Counselling was conducted on 12.07.2010.

3. During the counselling, the respondent displayed four vacancies and the petitioner was placed in S.No.5 in the seniority list. Senior exercise their options. Therefore, the petitioner could not get an opportunity to opt a post at Kanyakumari District. However, he was asked to accept a post in Government Higher Secondary School in Kadaladi at Ramanathapuram District. Due to family circumstances, the petitioner has submitted a letter of relinquishment, relinquishing his promotion for a period of three years. The reasons stated in the affidavit is that due to family situation, he has relinquished his right of promotion, as his wife is also working in aided school in Kanyakumari District.

4. The learned counsel for the petitioner made a submission that subsequently, his junior was accommodated in Kanyakumari District in the post of B.T.Assistant. The complaints of the petitioner is that the said vacancy was not shown during the counselling and, if that vacancy is shown in the counselling, he would have opted the said post and promoted as B.T.Assistant in Kanyakumari District itself. Therefore, he was deprived of the promotion on account of the fact that the particular vacancy was not shown in the counselling conducted on 12.07.2010.

5. The learned counsel for the petitioner made a submission that one Mohan was posted in Kanyakumari in the vacancy as B.T.Assistant. The said post was not shown in the counselling. This Court is of the considered opinion that the said ground would not entail the petitioner to get retrospective promotion. Counselling is the facility provided. This apart, the fact remains that the petitioner has not waited for any further vacancies, which would have arisen. Contrarily, he had given a letter of relinquishment, relinquishing his promotion for three years. Hence, the ground raised deserves no merits consideration.

6. Counselling is a concession provided to the employees to exercise their option for postings. Counselling *per se* would not provide any right. In the event of not declaring a particular vacancy, the vacancy would not confer any right. The writ petitioner was provided an option to get promotion to a post at Kadaladi. During the relevant point of time, he had submitted a relinquishment letter, relinquishing his promotion for three years. Even thereafter, in the next year the vacancy would have been shown or may not be available. All the administrative actions cannot be questioned by the writ petitioner.



7. In the present case, the counselling rules not violated. Admittedly, the petitioner was placed in Sl.No.5. His seniors opted postings at Kanyakumari District. The 5th person/ petitioner had left with one post at Kadaladi. He had taken a decision to relinquish his promotion to the post of B.T.Assistant and accordingly, given a letter of relinquishment on 06.10.2010. Relinquishment of promotion was voluntary and not at the instance of the officials. The petitioner himself stated that his wife is working in Kanyakumari District and due to family situation, he had given a letter of relinquishment. This being the factum established, the petitioner has no right to claim the promotion for a period of three years from the date of his relinquishment and the promotion now sought for from the year 2010, with reference to the counselling conducted on 12.07.2011, cannot be granted at all. Accordingly, the writ petition is devoid of merits and stands dismissed. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

To

1.The Director of School Education,
College Road,
Chennai - 600 006.

2.The Joint Director of School Education (personnel),
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3.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.GP (SR-19880[F] dated 13/10/2020)

W.P. (MD)No.20878 of 2013

12.10.2020

SRK(CO)

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