



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).No.14221 of 2014
and M.P. (MD)No.1 of 2014

I.Lilypushpam

... Petitioner

-Vs-

1.The Director of Elementary Education,
Chennai-6.

2.The Chairman,
Teachers Recruitment Board,
Chennai-6.

3.The District Elementary Educational Officer,
Ramanathapuram.

4.The District Employment Exchange Officer,
Ramanathapuram.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the first respondent in his proceedings in Na.Ka.No.4527/D1/2014, dated 08.05.2014 and quash the same consequently direct the respondents to appoint the petitioner as secondary grade teacher from the date on which her junior was given appointment on the basis of employment exchange registration seniority.

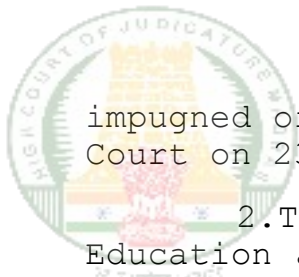
For Petitioner : Mr.V.Panneer Selvam
for M/s.C.S.Associates

For Respondents: Mrs.S.Srimathy
Special Government Pleader
(for R1, 3 and 4)

Mr.VR.Shanmuganathan (For R2)

ORDER

The impugned order, dated 08.05.2014, rejecting the claim of the writ petitioner for appointment to the post of Secondary Grade Teacher, is under challenge in the present writ petition. The



impugned order was passed, based on the direction was issued by this Court on 23.01.2014 in W.P.(MD)No.1150 of 2014.

2.The petitioner states that she passed Diploma in Teacher Education and she is fully qualified for appointment to the post of Secondary Grade Teacher.

3.The learned counsel appearing for the writ petitioner states that the appointment during the relevant point of time was done strictly in accordance with the employment seniority and by following the list of candidates through Employment Exchange. The petitioner registered her name in the Employment Exchange with effect from 22.12.1999 and the contention of the petitioner is that her juniors in the employment seniority were provided with appointment. Therefore, she is also entitled to be appointed in the post of Secondary Grade Teacher.

4.In view of the fact that no action was taken by the respondents on the representation, the petitioner filed W.P.(MD) No.1150 of 2014 and based on the directions issued by this Court to consider the representation, the impugned order was passed in proceedings, dated 23.05.2014.

5.The impugned order states that the teachers are not appointed directly by the Director of Elementary Education. All the appointments to the post of teachers are made by the Teachers Recruitment Board. State-wise seniority is maintained for the purpose of considering the names of eligible persons. While considering the names, the communal rotations are also followed from the year 2009 onwards. As per the orders of the Hon'ble Supreme Court of India, the appointments are made State-wise and this apart passing of teachers eligibility test is also mandatory as per the provisions of the Right of Children to Free and Compulsory Education Act 2009 and as per the directions of the National Council for Teacher Education.

6.The learned counsel for the petitioner has reiterated that the right of the petitioner was denied during the relevant point of time with reference to her employment seniority and therefore, the petitioner is to be appointed.

7.The learned Special Government Pleader appearing for the respondents 1, 3 and 4 opposed the contention by stating that the petitioner cannot be appointed this length of time and now the state-wise seniority list is being followed for appointment to the post of Secondary Grade Teacher. In the event of reaching the seniority, the case of the petitioner would be considered along with all other candidates.

8.This Court is of the considered opinion that the case of the writ petitioner is to be considered with reference to her eligibility and State-wise employment seniority. Appointment cannot be considered as a matter of right. Appointments are to be made



strictly in accordance with the rules in force. Opportunity is to be provided to all the candidates who all are waiting for such appointments in the order of seniority. Thus, Courts cannot issue an appointment order, merely on the ground that the petitioner is fully qualified and some of her juniors were appointed. However, the petitioner has not cited the name of any such juniors who were implementd.

9.This being the factum, the relief as such sought for cannot be considered as there is any infirmity with reference to the reasons stated in the order impugned, dated 08.05.2014. However, the case of the petitioner is to be considered along with all other eligibility candidates in the order of her State-wise employment seniority and subject to fulfilling the eligibility and other criteria.

10.With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

sjj

To

1.The Director of Elementary Education,
Chennai-6.

2.The District Elementary Educational Officer,
Ramanathapuram.

3.The District Employment Exchange Officer,
Ramanathapuram.

+1 CC to SGP (SR-23312[F] dated 30/11/2020)

W.P. (MD) .No.14221 of 2014

26.11.2020

VR (CO)

NR (07/12/2020) 3P : 5C