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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.8525 of 2012
and
M.P.(MD).No.2 of 2012

G.Shenbagavalli ... Petitioner

Vs.

1. The Director,
   Elementary Education,
   College Road, Egmore,
   Chennai.

2.The District Elementary Educational Officer,
   R.M.S.Road,
   Madurai.

3.The Additional Assistant Elementary Educational Officer,
  Kallikudi,
  Madurai District.

4.B.Sivakumar ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus, to call for the records relating to panel list issued by the second and third respondents herein dated 24.05.2012 for the post of B.T.Assistant (Tamil Pandit) year of 2012 and quash the same and consequently direct the respondents to appoint the petitioner to the post of B.T.Assistant (Tamil Pandit) for the year 2012.

For Petitioner : Mr.S.Anwar Sameem
for Mr.E.Udhaya

For Respondent Nos.1 to 3 : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader

For Respondent No.4 : Mr.A.Thirumurthy

ORDER

The present writ petition is filed challenging the panel list for the post of B.T.Assistant (Tamil Pandit) for the year 2012,

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dated 24.05.2012, issued by the second and third respondents and for a direction to the respondents to appoint the petitioner to the post of B.T.Assistant (Tamil Pandit) for the year 2012.

2. The case of the petitioner is that the petitioner was selected through Teachers Recruitment Board and joined in the Educational Department as Secondary Grade Teacher on 01.08.1995 and appointed in Kallikudi Union whereas the fourth respondent was also selected through Teachers Recruitment Board and appointed as Secondary Grade Teacher in Sellampatty Union and his native is Madurai, however, he sought voluntary transfer to Kallikudi Union. The next promotional post is that of Elementary School Headmaster. Both the petitioner as well as the fourth respondent were promoted and appointed on the same date, ie., 18.06.2001. The petitioner is senior to the fourth respondent since the petitioner's date of birth is 12.06.1970 and the fourth respondent's date of birth is 27.12.1971 and the petitioner had completed probation on 01.08.1995 whereas the fourth respondent had completed his probation on 03.08.1995. Be that as it may, the third respondent issued a panel list dated 24.05.2012 for the next promotional post of B.T. Assistant(Tamil Pandit) for the year 2012, wherein the petitioner was placed junior to the fourth respondent based on the merit rank number furnished by the Teachers Recruitment Board, as against which the petitioner filed an objection letter before the authorities concerned requesting to rectify the said anomaly, however, the said request was rejected by way of publishing the impugned Seniority List dated 24.05.2012. Hence, challenging the above said Seniority List, the petitioner filed the present writ petition.

3. The learned counsel for the petitioner would submit that as per G.O.Ms.No.338, Education, Science and Technical Education Department, dated 19.06.1996 the persons were allowed to retain the original seniority rank fixed by the Teacher Recruitment Bureau even after transfer from one Union to another union. While so, on 11.06.2007, the first respondent passed the impugned proceedings, by which, it has been stated that G.O.Ms.No.388 referred to above can be applied only to those persons, who had posted outside the District and subsequently got transferred to the native District and those persons alone can retain the seniority rank and in respect of persons, who were initially posted in the same District and got transferred to another Panchayat Union in the same District, they are not entitled to retain the rank given by the Teachers Recruitment Bureau and they will be placed as a junior most in the transferred union. He further submitted that contrary to the above said clarification letter, dated 11.06.2007, the present Seniority List was prepared is non-est in law and accordingly, he prays for allowing this writ petition.

4. The learned Additional Government Pleader would submit that as per G.O.Ms.No.338, Education, Science and Technical Education Department, dated 19.06.1996, based on the merit rank

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number furnished by the Teachers Recruitment Board, the Seniority List for the post of B.T.Assistant(Tamil Pandit) was published and hence, the said Seniority List was not prepared under the wrong impression as stated by the petitioner in his affidavit.

5. The learned counsel appearing for the fourth respondent would submit that the petitioner and the fourth respondent were selected and appointed as Secondary Grade Teachers though TRB in the year 1995 and the petitioner was appointed in her native Kallikudi Union Madurai District and joined duty on 01.08.1995 whereas the fourth respondent also native of Kallikudi Union, he was appointed in Chellampatti Union in Madurai District and joined duty on 03.08.1995. He would further submit that as published by TRB, the fourth respondent's merit rank number is 2471 and the petitioner's merit rank number is 3170. As per the G.O.Ms.No.388 referred to above, the petitioner is junior to the fourth respondent. Hence, as per the TRB ranking, the fourth respondent has been placed at Sl.No.48 and the petitioner has been placed at Sl.No.50 in the Seniority list of Primary Schools Headmasters published as on 01.01.2002 and without challenging the earlier seniority list published in the year 2002, now, challenging the present Seniority List, dated 24.05.2012 is not acceptable and hence, this writ petition is not maintainable. Accordingly, he prays for dismissal of this writ petition.

6. Heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent and perused the materials available on record.

7. Considering the facts and circumstances of the case, admittedly, both of the petitioner as well as the fourth respondent were selected through Teachers Recruitment Board in the year 1995. Though the petitioner is senior to the fourth respondent as per the date of birth, however, as per the TRB merit ranking, the fourth respondent's rank is 2471 and the petitioner's rank is 3170. Perusal of the said G.O.Ms.No.388 makes it clear that the said Government Order cannot confine to transfer from one District to another District and it is applicable to transfer from one Panchayat Union to another Panchayat Union within the same District, as a one time measure and those persons are also entitled to retain seniority and as per the TRB ranking, the original seniority list was published in the year 2002 and subsequently, both of them have granted promotion to the post of Elementary School Headmaster and thereafter, the second and third respondents prepared the panel Seniority list for the post of B.T.Assistant(Tamil Pandit) on 24.05.2012, which is impugned in this writ petition. However, without challenging the original seniority list published in the year 2002, challenging the present Seniority List, dated 24.05.2012, which was published on the basis of the original list, is not sustainable one.

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8. For the foregoing reasons, this writ petition is not maintainable, and the writ petition stands dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

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Sub Assistant Registrar(CS)

PJL

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Director,
   Elementary Education,
   College Road, Egmore,
   Chennai.

2.The District Elementary Educational Officer,
  R.M.S.Road,
  Madurai.

3.The Additional Assistant Elementary Educational Officer,
  Kallikudi,
  Madurai District.

+1 CC to SPL GP (SR-4035[F] dated 09/02/2021)

+1 CC to Mr.A.THIRUMURTHY, Advocate (SR-4051[F] dated 09/02/2021)

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