



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD)No.20487 of 2013 and

M.P.(MD)Nos.1 to 3 of 2013

WEB COPY

N.Elamathi

... Petitioner

vs.

- 1.The State of Tamil Nadu
represented by its Secretary to Government,
Department of School Education,
Secretariat, Fort St.George, Chennai.
- 2.The Teacher Recruitment Board
represented by its Member Secretary,
4th Floor, EVK Sampath Maligai,
DPI Campus, College Road, Chennai.
- 3.The Commissioner,
Adi Dravidar Welfare Department,
Chepauk, Chennai - 600 005.
- 4.The Director,
Adi Dravidar Welfare Department,
Chennai -5.
- 5.The Chief Educational Officer,
Office of the Chief Educational Officer,
Panagal Building, Thanjavur, Thanjavur District.
- 6.The District Employment Officer,
Office of the District Employment Officer,
Thirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records connected with the impugned order in Na.Ka.No.01/37584/2009, dated 25.09.2013 on the file of the respondent No.4 and the order in Na.Ka.No.1104/Aa4/2013, dated 25.10.2013 on the file of the second respondent and quash the same as illegal and consequently, to direct the respondent Nos.2 and 4 to appoint the petitioner as Secondary Grade Teacher in any one of the Schools under the 4th respondent on the basis of the order of second respondent, dated 22.12.2009 in Na.Ka.No.02/37584/2008 within the time stipulated by this Court.

For Petitioner

: Mr.R.Alagumani

For R1 and R3 to R6

: Mr.M.Linga Durai
Government Advocate

For R2

: Mr.V.R.Shanmuganathan



O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned orders passed by the respondents 4 and 2, dated 25.09.2013 and 25.10.2013, respectively, and to direct the respondent Nos.2 and 4 to appoint the petitioner as Secondary Grade Teacher in any one of the Schools under the fourth respondent on the basis of the order of the second respondent, dated 22.12.2009, within the time stipulated by this Court.

2.Heard Mr.R.Alagumani, learned Counsel for the petitioner, Mr.M.Linga Durai, learned Government Advocate for R1, R3 to R6 and Mr.VR.Shanmuganathan, learned Counsel for the second respondent.

3.Brief facts, that are necessary for the purpose of disposal of this Writ Petition, are as follows:

3.1.The petitioner completed her SSLC in March 1996 and +2 in 1998. She also underwent Teacher Training and enrolled in the Employment Exchange on 19.09.2001. The petitioner was provisionally selected by the second respondent by a proceeding, dated 23.11.2009, to the post of Secondary Grade Teacher and was selected to Adi Dravidar Welfare Department School. The petitioner belongs to Scheduled Caste community. It is stated by the petitioner that she was called for counselling held on 22.12.2009 and she participated in the counselling. By order, dated 22.12.2009, the petitioner was allotted in Tanjore District. The petitioner herself admitted that she did not join duty. From the explanation submitted by the petitioner later, it is her case that she underwent a surgery for delivery of her second child and family planning and that therefore, she could not join duty. It is to be pointed out that the petitioner for specific reasons sought for appointment in any one of Union Schools instead of a School under the control of fourth respondent.

3.2.It is admitted before this Court that the petitioner had no intention to join in the School, in which she was appointed, as the petitioner was requesting the respondents to appoint her in any other Union School, as the petitioner's appointment in Adi Dravidar Welfare Department School is not acceptable to her. It is also admitted by the petitioner herself that the petitioner had sent a few representations to the various officials to give her appointment in the Union Schools under the control of Directorate of School Education. From the representation of the petitioner, dated 10.02.2011, it is seen that the petitioner was unable to join duty due to her health condition and that therefore, she should be given employment, as Secondary Grade Teacher. After submission of few more representations, the petitioner filed a Writ Petition before this Court in W.P.(MD)No.821 of 2013 to consider her representation, dated 08.06.2011 for issuing posting orders as per the earlier selection made by the Teachers Recruitment Board in the Adi Dravidar



Welfare Department. The said Writ Petition was disposed of by this Court by order, dated 11.01.2013 in the following lines:

"4.Considering the limited nature of the prayer made, without expressing any opinion on the merits of the case, the Writ Petition is disposed of, directing the respondent to consider the representation of the petitioner dated 08.06.2011 and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs."

3.3.After the order of this Court, the petitioner also submitted further representation to pass appropriate final orders on the representation of the petitioner, dated 08.06.2011. By the impugned order, dated 25.09.2013, the petitioner's representation, based on the direction of this Court, dated 11.01.2013, was considered. The fourth respondent rejected the petitioner's representation pointing out that the petitioner has expressed her unwillingness to get appointment in Adi Dravidar Welfare Department School, by placing reliance on the letter of the petitioner, dated 09.02.2010. Since the petitioner did not join duty, despite an appointment order was issued to the petitioner, it is stated by the fourth respondent that the petitioner had failed to avail the opportunity at the relevant point of time and that fresh recruitment has now been given to Teachers Recruitment Board as per the policy decision of the Government. Therefore, the petitioner's representation for giving employment pursuant to the earlier selection was specifically rejected by the fourth respondent for reasons attributed to the petitioner's conduct. Subsequently, by an order, dated 25.10.2013, the Member Secretary of the Teachers Recruitment Board, namely, the second respondent herein, also rejected the representation of the petitioner on the ground that the petitioner cannot be considered to the post of Secondary Grade Teacher, as the petitioner does not have the required qualification by passing Teachers Eligibility Test. Aggrieved by the same, the above Writ Petition is filed.

4.The learned Counsel for the petitioner referring to the latter order passed by the second respondent submitted that the petitioner was qualified, when the process of recruitment was initiated in 2009 and that therefore, the impugned orders are arbitrary and illegal. It is further stated that the impugned orders, without considering the petitioner's qualification as per the Rule, which was vogue at the time of recruitment, cannot stand. It is also stated by the learned Counsel for the petitioner that the petitioner underwent surgery for delivery of her second child and that she could not join duty due to her physical condition.

5.Even in the Writ Petition, one of the grounds raised by the petitioner is that she is interested in working in Union School,

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because, there will be promotional opportunities and that she requested for employment in Union Schools, which are under the control of Directorate of School Education. From the representation of the petitioner, which was submitted immediately after her appointment and subsequent representation, this Court is able to see that the petitioner did not accept employment for a specific reason that her service condition will not be good in the Schools under the control of Adi Dravidar Welfare Department. Therefore, the impugned order passed by the fourth respondent clearly reveals that the petitioner did not avail the opportunity by accepting employment earlier. The petitioner's request to appoint her in Union Schools would only indicate that the petitioner was keen in pursuing her appointment in Union Schools. When the fourth respondent has taken a specific stand that the fourth respondent cannot keep the post vacant and fresh candidate being sponsored by the Teachers Recruitment Board, this Court cannot compel the fourth respondent to give appointment to the petitioner. The order of fourth respondent cannot be faulted, as the petitioner herself, by her conduct, paved way for such decision by the fourth respondent.

6.The next question is whether the petitioner is entitled to pursue the Teachers Recruitment Board for getting employment based on the original recruitment notification. As rightly pointed by the learned Counsel for the second respondent, the petitioner, who failed to avail the opportunity by getting posting in Adi Dravidar Welfare Department School, cannot now demand that her candidature should be considered, as one pursuant to the recruitment process, which was initiated in 2009. When the fourth respondent has taken a specific stand that the petitioner's request cannot be considered in view of the fact that the recruitment will be considered by the Teachers Recruitment Board, the impugned order passed by the second respondent, dated 25.10.2013, is also proper. The petitioner cannot be given any indulgence, having regard to her conduct earlier and her attitude not to accept the employment on the ground that she belongs to Scheduled Caste community and that her posting in Adi Dravidar Welfare Department School, is just an insult.

7.For the reasons stated above, this Court is not inclined to entertain this Writ Petition. Hence, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

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/ /2021

Sub Assistant Registrar(CS)



To

- 1.The Secretary to Government,
The State of Tamil Nadu
Department of School Education,
Secretariat, Fort St.George, Chennai.
- 2.The Member Secretary,
The Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Campus, College Road, Chennai.
- 3.The Commissioner,
Adi Dravidar Welfare Department,
Chepauk, Chennai - 600 005.
- 4.The Director,
Adi Dravidar Welfare Department,
Chennai -5.
- 5.The Chief Educational Officer,
Office of the Chief Educational Officer,
Panagal Building, Thanjavur,
Thanjavur District.
- 6.The District Employment Officer,
Office of the District Employment Officer,
Thirunelveli.

+1 CC to M/s.SPL. GP (SR-28961[F] dated 14/09/2021)

Order made in
W.P. (MD) No.20487 of 2013
13.09.2021

RS (20.09.2021) 5P 8C