



WEB COPY

W.P.(MD)No.20839 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.12.2021
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.20839 of 2013

and

M.P. (MD)No.1 of 2013

H.Stephen

... Petitioner

vs..

1. The Government of Tamil Nadu
represented by its Secretary to Government,
School Education Department,
Fort, St.George,
Chennai - 600 009.

2. The Director of School Education,
College Road,
Chennai - 600 009.

3. The Chief Educational Officer,
Nagercoil.

4. The District Educational Officer,
Nagercoil Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to promote the petitioner to the post of B.T.Assistant (English) in the available sanctioned vacant post at Kanyakumari District as per the seniority list describe by the respondents, dated 01.01.2012.

For Petitioner : Mr.D.Anbarasu

For Respondents : Mr.R.Ragavendran
Government Advocate (Civil side)

O R D E R

The petitioner has filed this writ petition for Writ of Mandamus, directing the respondents to promote the petitioner to the post of B.T Assistant (English) in Kanyakumari District.

2. The claim of the petitioner is, he has completed B.A Degree in English in the year 1990 and Diploma in Teacher Training in 1987 and B.Ed in the year 2010. He was appointed on 01.08.1995 as Secondary Grade Teacher through Teachers Recruitment Board. The petitioner has served in various schools in Kanyakumari District.



As per the state seniority list on 01.01.2012, the petitioner seniority number is 9 and No.3 in the Kanyakumari District seniority list. The respondents notified "No vacancy" for Kanyakumari District at the counseling held on 30.07.2012. Therefore, the petitioner served with a promotion order, dated 31.08.2012, appointing him as Graduate Teacher (English) at Government High School, Boothalapuram, Tuticorin District on 31.08.2012. The claim of the petitioner is that even though there are vacancies available in Kanyakumari District, the respondents have not granted promotion within Kanyakumari District. Therefore, the petitioner submitted a letter temporarily relinquishing the promotion.

3. Thereafter, the petitioner approached the authorities under the R.T.I Act, seeking for available vacancies in Kanyakumari District. As per the information dated 19.12.2012 by the Kadiyapattinam Head Master two posts of Graduate Teacher (English) is vacant. As per the Headmaster Government High School, Allenkottai, Kanyakumari District out of 2 posts of Graduate Teacher (English) one post is available. Then in Vallankumaravilai Government High School has stated 3 posts was available, Anaikuzhi Government High School has stated that one post is vacant and Thallakulam Headmaster has given 4 posts is vacant. When the Headmasters have given all these vacancies position, the respondents stating that "no vacancy" is incorrect.

4. The respondents have filed counter affidavit stating that due to "surplus teachers" in Kanyakumari District, the petitioner was transferred to Theni District on 20.06.2002 and then transferred to Government High School, Kanjira Code on 05.07.2006. Thereafter, he was granted promotion as B.T Assistant (English) on 31.08.2012 and was posted to Government High School Boothalapuram, Tuticorin District. Since it is in Tuticorin, the petitioner refused to accept and has submitted relinquishment letter, dated 24.09.2012, which is recorded in the service book on the same day. Thereafter, the petitioner submitted the representation to grant promotion in Kanyakumari District itself. It is stated in the counter affidavit that the petitioner has again relinquished the promotion for a period of three years from 06.09.2016, which is recorded in the service book.

5. Heard Mr.D.Anbarasu, learned Counsel appearing for the petitioner and Mr.R.Ragavendran, learned Government Advocated (Civil side) appearing for the respondents.

6. The respondents have stated that there are vacancies in Kanyakumari District which are rendered as "surplus post" and the petitioner cannot claim vacancies in the school. When there are surplus teachers in Kanyakumari District, then the petitioner has no right to claim in Kanyakumari District. Infact the petitioner was granted promotion in the vacancy in Tuticorin District and



thereafter the petitioner submitted relinquishment letter. The petitioner ought to have accepted the promotion in Tuticorin District, if the petitioner is so particular to get promotion, but decided to relinquish. When the petitioner has submitted relinquishment letter, then the petitioner cannot claim promotion until three years period expires. On perusing the records, it is seen that the petitioner has submitted two relinquishment letters dated 24.09.2012 and 06.09.2016. The three years period is over by 2015 and again the petitioner submitted another relinquishment letter dated 06.09.2016 and the three years will be completed by 2019. Therefore, the respondents are directed to consider the petitioner's promotion from the year 2020, if the vacancy is available in Kanyakumari District and if the post is not surplus.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

jbr

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 Government of Tamil Nadu
represented by its Secretary to Government,
School Education Department,
Fort, St.George,
Chennai - 600 009.
2. The Director of School Education,
College Road,
Chennai - 600 009.
3. The chief Educational Officer,
Ngercoil.



4. The District Educational Officer,
Nagercoil Kanyakumari District.

+1 CC to M/s.D.ANBARASU, Advocate (SR-37242[F] dated 03/12/2021)

+1 CC to M/s.SPL GP (SR-37418[F] dated 06/12/2021)

W.P. (MD) No.20839 of 2013
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RD(27.12.2021) 4P 7C