



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

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Rev.Applc. (MD)No.121 of 2019

WA. (MD) .448 of 2014

Teachers Recruitment Board
Rep. by its Chairman
EVK Sampath Maligai
College Road,
Chennai - 06.

: Petitioner/Appellant

Vs.

1.P.Muthuvalan

2.M.Jeyaseelan

3.M.Ramamoorthy

: Respondents/Respondents

PRAYER: Review application is filed under Order 47 Rules 1 and 2 r/w Section 114 of the Code of Civil Procedure to review the order of this Court dated 22.08.2017 made in W.A. (MD) No.448/2014.

Prayer in WA(MD). 448/ 2014 :

This Writ appeal id filed under Clause 15 of Letters Patent, to set aside the order dated 12.10.2012 in WP(MD) No.11663 of 2012

Prayer in WP(MD). 11663/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned tentative provisional list of candidates selected for appointment for the recruitment of Special Teachers through Employment Registration State Seniority 2010-2011 and 2011-2012 dated Nil published in the Internet by the Respondent No.1 and quash the same as illegal and consequently to consider the petitioner for appointment under LA(Land Acquisition) priority to the post of Special Teacher (Physical Education) within the time stipulated by this Honourable Court.

For Petitioner

: Mr.V.R.Shanmuganathan
Special Government Pleader

For Respondents

: Mr.T.Lajapathi Roy for R1
Mr.C.M.Arumugam for R2



ORDER

(Order of the Court was made by G.R.SWAMINATHAN, J.)

This review application is filed to review the order of this Court dated 22.08.2017 made in W.A.(MD) No.448/2014.

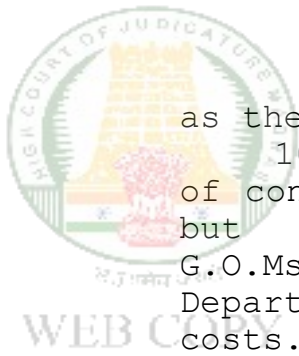
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2.The Teachers Recruitment Board has filed this review application seeking review of the order dated 22.08.2017, whereby, W.A.(MD) No.448/2014 was dismissed. The said writ appeal was filed by the review applicant challenging the order passed by the learned single Judge, whereby the entire selection process had been set at naught. The order passed by the learned single Judge was sustained by the Division Bench. The learned single Judge had held that the Board was clearly wrong in recruiting candidates as special Teachers only through the Employment Exchange. The Board had not invited any application from the open market. Since the decision of the learned single Judge was predicated on the decision of the Hon'ble Supreme Court in ***Excise Superintendent Malkapatanam, Krishna District, AP v. K.B.N.Visweshwar Rao and others [(1996) 6 SCC 216]*** and ***Union of India v. N.Hargopal and others (1987) 3 SCC 308***, the Division Bench confirmed the order.

3. The learned Special Government Pleader points out that as a result of the order passed by the Division Bench, a very large number of persons, who had been selected pursuant to the impugned selection notice would have to be ousted. He pointed out that in similar case, the Hon'ble First Bench as well as the other Division Benches had taken an indulgent view and specifically observed that the persons, who had already been selected will not be disturbed. The learned counsel specifically drew our attention to the order dated 03.11.2015 in W.A.(MD) No.1114/2015, in which, it was observed as follows:

"8.Mr.K.Chellapandian, learned Additional Advocate General appearing for the appellants submits that after the judgment of the learned Judge, the Government had started following the practice of inviting the list of candidates from the Employment Exchange and also making paper publication inviting applications from the open market. The Government has no difficulty in following the same practice in future. But only insofar as the recruitment that took place in 2012, 350 persons cannot now be sent out.

9.Considering the limited nature of the grievance and also considering the fact that there was no interim stay of G.O.Ms.No.10, Animal Husbandry and Fisheries (AH-1) Department, dated 27.01.2012, during the pendency of the writ petition, we are of the view that the order of the learned Judge could be modified to a limited extent so that persons who are already appointed pursuant to the order impugned in the writ petition need not be disturbed



as they were also not parties before the learned Judge.

10. In view of the above, the writ appeal is disposed of confirming the order of the learned Judge on principle but clarifying that those appointed pursuant to G.O.Ms.No.10, Animal Husbandry and Fisheries (AH-1) Department dated 27.01.2012 shall not be disturbed. No costs. Consequently, M.P.(MD) No.2 of 2015 is closed."

4. All that the learned counsel seeks is making of similar observations and granting of similar protection. We must make it clear that this review application has been filed by a different counsel. We must remind the learned counsel that the contention now urged before us was not urged before the Division Bench, which disposed of W.A.(MD) No.448/2014.

5. Strictly speaking, the prayer now sought for by the learned counsel is beyond the scope of the review jurisdiction. We must specifically note that the order dated 03.11.2015 made in W.A.(MD) No.1114 of 2015 was never brought to the notice of the Division Bench, to which one of us (G.R.S.,J) is a party. However, in order to maintain consistency and uniformity, we deem it fit and proper to clarify that the persons, who had been selected pursuant to the notification impugned in the writ petition, will not be disturbed.

6. The Review application is disposed of on these terms. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

The Chairman,
Teachers Recruitment Board
EVK Sampath Maligai
College Road, Chennai - 06.

+1CC to M/s.T.Lajapathi Roy, Advocate, SR.No.26538 of 2020

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