WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.07.2021**

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.12477 of 2020

T.Angelin Kirubakaram ... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary,
Department of Tamil Development,
Fort St. George,
Chennai-600 009.

2.The Director of Tamil Development,
Tamil Development Complex,
Egmore,
Chennai-600 008. ... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to appoint forthwith the petitioner as Assistant Director of Tamil Development by way of transfer from Education Department.

For Petitioner : Mrs.A.Amala
For Respondents : Mr.Veera Kathiravan
Senior Standing Counsel for
the State Government
Assisted by
Mr.K.S.Selvaganesan
Government Advocate

ORDER

This writ petition is filed to direct the respondents to appoint the petitioner as Assistant Director of Tamil Development by way of transfer from Education Department.

2. The learned counsel appearing for the petitioner submitted that the petitioner is working as BT Assistant in Kakkai Pandiniyar Corporation Girls Higher Secondary School, Madurai. According to the petitioner, her husband was Tamil Scholar and written three books. The petitioner's educational qualification is M.A., M.Phil., and M.Ed., degrees. The petitioner helped her husband while he was working for the growth and development of Tamil. While the petitioner's husband was working as Assistant Director of Tamil Development at Virudhunagar District, he died in the year 2011 due to heart ailment. The petitioner in her desire to develop Tamil, applied for the post of Assistant Director of Tamil Development. The said application was rejected, as the petitioner has not applied

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

through proper channel. At the request of the petitioner, the Commissioner, Madurai Corporation, sent the application of the petitioner for transferring her from Education Department to Tamil Development Department by the proceedings, dated 25.05.2015 to the second respondent along with their consent. In spite of such permission granted by the Commissioner, Madurai Corporation, the second respondent did not pass any orders on the application submitted by the petitioner. Hence, the petitioner submitted a representation to the first respondent on 23.05.2015 to consider her request for transfer to the post of Assistant Director of Tamil Development. Since no order was passed, the petitioner filed a writ petition in W.P(MD)No.317 of 2017 for a direction to the second respondent to forward the petitioner's application to the Secretary to Tamil Nadu Government for Tamil Development for appointment of the petitioner as Assistant Director of Tamil Development. This Court, by order dated 06.01.2017, disposed the writ petition directing the respondents therein to consider the request of the petitioner and pass orders in accordance with law, if there are no legal impediments after affording opportunity of being heard to the petitioner. Thereafter, the first respondent, by the proceedings, dated 29.05.2017 informed the petitioner that vacancy for the post of Assistant Director for the year 2015-2016 is getting finalized and once it is finalized, one person from the post of Superintendent, one person from direct recruitment and one person from other department by way of transfer, will be appointed in the ratio of 1:1:1. The first respondent also informed that before filling up the candidates from other department for the post of Assistant Director, the eligible candidates will be called for through publications. The selection committee shall choose the eligible candidates, the petitioner's application will be considered at that time.

3. The learned counsel appearing for the petitioner submitted that the Government issued G.O(Ms)No.102, Tamil Development and Information (Tha.va.2.1) Department, dated 08.05.2015, stating that the post of Assistant Director of Tamil Development can be filled up by transferring the suitable candidates from the Education Department. In the light of the above Government Order, without following any selection procedure, one T.Kamarasu with M.A., B.Ed., qualification, was appointed as Assistant Director in Tamil Development Department on 23.05.2016, by way of transfer from Education Department. The petitioner is fully qualified and is having better and higher education than Mr.T.Kamarasu, but she was not called for. The learned counsel appearing for the petitioner further submitted that the petitioner made representations from the year 2012, but she was not considered for the post of Assistant Director in Tamil Development. The petitioner is fully qualified for the post of Assistant Director. Her service as BT Assistant in the Corporation School, Madurai, shows her commitment and desire to the development and the growth of Tamil. The learned counsel appearing for the petitioner further submitted that the petitioner

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

obtained information under the Right to Information Act and it stated that from the year 2015-2020, 16 persons were appointed as Assistant Directors in Tamil Development Department and prayed for allowing the writ petition.

4. The first respondent filed counter affidavit. The learned Senior Standing Counsel appearing for the respondents contended that the present writ petition for mandamus directing the respondents to appoint the petitioner to the post of Assistant Director in Tamil Development Department, by way of transfer from Education Department, is not maintainable. Originally, the post of Assistant Director in Tamil Development Department, was filled up by three methods ie., recruitment by transfer, direct recruitment, recruitment by transfer from any other class or category (School Education or Collegiate Education Department). Subsequently, Adhoc rules were amended and the post is to be filled up by promotion from the post of Superintendent and direct recruitment in the ratio of 1 : 1. The learned Senior Standing Counsel further contended that one Mr.T.Kamarasu referred by the petitioner, contributed more to the Tamil Development Department and his contributions were assessed by the respondents. Considering his contributions, he was promoted on 08.05.2015. The said order was not challenged by the petitioner. The petitioner made application only on 09.03.2015. The Commissioner of Madurai Corporation gave consent only on 25.05.2015. Subsequently, Rules were amended and at that time, there is no appointment to the post of Assistant Director in Tamil Development Department by way of transfer from other Departments. Reference is to be given only to the School and Collegiate Education Departments. The petitioner is not within that preferencial category, and she is working in the Corporation School. Hence, the petitioner is not entitled for the relief sought for in the present writ petition and prayed for dismissal of the writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned Senior Standing Counsel appearing for the respondents and perused the materials available on record.

6. From the materials on record, it is seen that according to the petitioner, she was applying from the year 2012 for being appointed as Assistant Director in Tamil Development Department. From the materials, it is seen that she sent representation on 09.04.2012 for appointment as Assistant Director in Tamil Development Department on compassionate ground on the death of her husband. The said request was rejected on the ground that the compassionate appointment will be considered only for the post of Typist, Stenographer and Junior Assistant and the petitioner's request for appointment on compassionate ground by transfer from other Departments cannot be considered. On such rejection, the petitioner sent representation on 24.10.2014 to the Chief Minister's Cell. On receipt of such representation, she was informed to apply through proper channel. The petitioner gave representation dated

https://hcservices.ecourts.gov.in/hcservices/

09.03.2015, to the Commissioner, Madurai Corporation. The said letter was forwarded to the second respondent on 14.05.2015. The Director of School Education informed that the Commissioner can take decision as the Corporation is the independent Unit. On receipt of such communication, the Commissioner, Madurai Corporation, by the proceedings, dated 20.05.2015 gave a consent for transfer of the petitioner and forwarded the proposal to the second respondent. It is pertinent to note that upto 2015, the appointment to the post of Assistant Director was made by two methods, viz., by direct recruitment and promotion from the post of Superintendent. Only by G.O.(Ms)No.102, Tamil Development and Information (Tha.va.2.1) Department, dated 08.05.2015, amendment was made to the Rule and appointment was made by three methods. One method by direct recruitment, another by promotion from the post Superintendent and the third method is transfer from other Departments. Again, vide G.O.(Ms)No.55, Tamil Development and Information (TD2.1) Department, dated 16.03.2018, Adhoc Rules for the method of appointment of Assistant Directors, were amended by the Government from 1:1:1 to 1:1 (Recruitment by transfer and Direct Recruitment). From the year 2013, there is no provision for appointing the Assistant Director in Tamil Development Department by transfer. The appointment of T.Kamarasu was made before the consent given by the Commissioner, Madurai Corporation, and before the amendment ie., on 16.03.2018, before issuance of G.O.(Ms)No.55, Tamil Development and Information (TD2.1) Department. In view of the above materials, the petitioner is not entitled to the relief sought for in the present writ petition. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

am

To

1.The Secretary,
State of Tamil Nadu
Department of Tamil Development,
Fort St. George,Chennai-600 009.

2.The Director of Tamil Development,
Tamil Development Complex,
Egmore, Chennai-600 008.

W.P.(MD)No.12477 of 2020
20.07.2021

_RD(30.07.2021) 4P 3C

https://hcservices.ecourts.gov.in/hcservices/