



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:12.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.9714 of 2017

and

W.M.P. (MD) .No.7460 of 2017

WEB COPY

G.Nalini

... Petitioner

Vs.

1.The District Elementary Educational Officer,
Tirunelveli,
Tirunelveli District.

2.The Assistant Elementary Educational Officer,
Palayamkottai Range,
Palayamkottai (Urban),
Tirunelveli District.

3.Louis Mary

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus forbearing the third respondent herein or any other B.T.Assistant from joining in the post of B.T. Assistant (Maths) in the vacancies at Corporation New Middle School, Vanarpettai, Palayamkottai (Urban) Range, Tirunelveli District or any other Municipal / Corporation Schools in Palayamkottai (Urban) Range, Tirunelveli District and promote the petitioner as B.T. Assistant (Maths) in the vacancies at Corporation New Middle School, Vanarpettai, Palayamkottai (Urban) Range, Tirunelveli District, as per the panel for promotion as on 01.01.2017, issued by the second respondent herein in accordance with the G.O.(Ms).No.239, dated 22.09.2007, without any delay.

For Petitioner

: Mr.T.Pon Ramkumar

For R1 & R2

: Mr.C.M.Marichelliah Prabhu

Additional Government Pleader

O R D E R

This writ petition has been filed for issuance of a writ of Mandamus forbearing the third respondent or any other B.T.Assistant from joining in the post of B.T. Assistant (Maths) at Corporation New Middle School, Vanarpettai, Palayamkottai (Urban) Range, Tirunelveli District or any other Municipal / Corporation Schools in Palayamkottai (Urban) Range, Tirunelveli District and promote the petitioner as B.T. Assistant (Maths) in the vacancies at Corporation New Middle School, Vanarpettai, Palayamkottai (Urban) Range, Tirunelveli District, as per the panel for promotion as on 01.01.2017, issued by the second respondent, in accordance with the G.O. (Ms).No.239, dated 22.09.2007, without any delay.



2. The case of the petitioner is that the petitioner was appointed as Secondary Grade Teacher in the Panchayat Union Middle School, Panneerootru, Mela Neelithanallur Union, Tirunelveli District, in the year 1995. Thereafter, she was transferred to Corporation Middle School, Palayamkottai Range (Urban), Tirunelveli District. Before the introduction of G.O.(Ms.).No.239, dated 22.09.2007, if any B.T.Assistant post is vacant in the range of Union, the same has to be filled up by adopting the procedure of 50:50 basis ie., 50% of vacancies have to be filled up by way of promotion and the remaining 50% of vacancies have to be filled up by way of adopting method of direct recruitment or transfer. But, the G.O.(Ms.).No.239, dated 22.09.2007, categorically held that after exhausting the promotion alone the posts have to be filled up by appointing persons from open market or Teachers Recruitment Board.

3. It is the further case of the petitioner that in the promotional panel for the post of B.T.Assistant (Maths) in Palayamkottai (Urban) Range, for the academic year 2017, the petitioner's name was found as Serial No.1. As per G.O.(Ms.).No.239, dated 22.09.2007, the petitioner has to be promoted as B.T.Assistant (Maths) in the Corporation Middle School, Vanarpettai, Palayamkottai (Urban) Range, Tirunelveli District. However, contrary to G.O.(Ms.).No.239, dated 22.09.2007, in order to post the third respondent in the said vacancy, the respondents have issued the deployment order. By virtue of the deployment order, the petitioner's right of promotion is affected. Hence, the petitioner has filed the present writ petition with the aforesaid prayer.

4. The learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that the third respondent was accommodated by redeployment, in the vacancy that arose in the Corporation Middle School, Vannarpet, Palayamkottai Urban Range, on 22.05.2017.

5. In view of the fact that the above said vacancy was filled up by the first respondent, dated 22.05.2017, Mandamus sought for in this writ petition cannot be granted. Hence, this writ petition is dismissed. However, liberty is granted to the petitioner to work out the remedy, in the manner known to law. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

1.The District Elementary Educational Officer,
Tirunelveli,
Tirunelveli District.

2.The Assistant Elementary Educational Officer,
Palayamkottai Range,
Palayamkottai (Urban),
Tirunelveli District.

+1 CC to M/s.SPL GP (SR-11165[F] dated 15/03/2021)

+1 CC to M/s.T.PON RAMKUMAR, Advocate (SR-10817[F] dated 12/03/2021)

W.P. (MD)No.9714 of 2017
12.03.2021

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(CO)

AC(10.05.2021) 3P 5C