



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.34758 of 2013

and

M.P.No.1 of 2013

Shanthi

... Petitioner

Vs.

1. The Chief Educational Officer
Namakkal District
Namakkal.

2. The District Educational Officer
Namakkal District
Namakkal.

3. The Correspondent
Sankar Higher Secondary School
Sankari West
Namakkal District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to appoint petitioner as B.Ed. Graduate Teacher, Social Studies subject in the 3rd respondent's School in the vacancy arisen due to the promotion of the B.Ed. Graduate Teacher, Mr. Subramanian as P.G. Asst. Teacher in the same School.

For Petitioner : Mr.C.K.M.Appaji

For R1 and R2 : Mr.M.Bindram
Additional Government Pleader

For R3 : Mr.Vishnu Mohan
For Mr.R.Parthasarathy

ORDER

The relief sought for in the present writ petition is to direct the respondents to appoint the writ petitioner as B.Ed.



Graduate Teacher (Social Studies) in the 3rd respondent school, which is an aided institution.

2.The petitioner states that a vacancy had arisen during the relevant point of time due to the promotion of a B.Ed. Graduate Teacher, one Mr.Subramaniam, as P.G. Assistant in the same school.

3.The learned counsel for the petitioner strenuously contended that the petitioner is now working as a Secondary Grade Teacher in the 3rd respondent School for the past about 32 years. The petitioner is fully qualified for appointment to the post of B.T. Assistant in History. However, the case of the petitioner was not considered for appointment to the post of B.T. Assistant, despite the fact that the Management passed a resolution for conversion of post and the said resolution was forwarded to the Department of School Education for passing appropriate orders.

4.The learned counsel appearing on behalf of the 3rd respondent School Management objected the said contentions by stating that the petitioner, admittedly, is working as a Secondary Grade Teacher. There is no sanctioned post of B.T. Assistant (History) available in the 3rd respondent School. Therefore, the P.G. Assistants, who all are taking classes for Higher Secondary Courses are deputed to take classes for the students studying in 9th and 10th standards in the School. However, the Secondary Grade Teachers cannot be deputed to take classes for higher standards.

5.The learned Additional Government Pleader appearing on behalf of the Department made a submission that the post of B.T. Assistant (History) is not sanctioned for the School. Even in case sanctioned post is available, the procedures as contemplated under the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, are to be followed, and therefore, the writ petition is liable to be rejected.

6.Considering the arguments, this Court is of the considered opinion that the relief as such sought for to direct the respondents to appoint the writ petitioner as B.T. Assistant (History) cannot be granted in view of the fact that there is no sanctioned post available in the category of B.T.Assistant (History) in the 3rd respondent School. Even in case the post is sanctioned, the Management has to follow the procedures contemplated for appointment or promotion. With reference to the resolution passed by the Management for conversion of post or otherwise, it is for the Management to pursue the same before the Department in accordance with Rules in force. It is not made clear whether the conversion of post is permissible or not.



All such factors are to be considered by the competent authorities of the Education Department. This Court cannot issue any direction in that regard. Unless the petitioner establishes a right for appointment to the post of B.T. Assistant, the Court would not be in a position to issue any positive direction for granting the relief sought for in the present case. The petitioner is working as a Secondary Grade Teacher and mere eligibility or qualification would not confer any right to secure appointment or promotion to the post of B.T. Assistant (History). Thus, the relief as such sought for deserves no merit consideration.

7. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Jeni/Mkn

To

1. The Chief Educational Officer
Namakkal District, Namakkal.
2. The District Educational Officer
Namakkal District, Namakkal.
3. The Correspondent
Sankar Higher Secondary School
Sankari West, Namakkal District.

+1cc to Mr.R.Parthasarathy, Advocate, S.R.No.33993
+1cc to Mr.C.K.M.Appaji, Advocate, S.R.No.33449

W.P.No.34758 of 2013

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NSK/16/06/2022