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W.P.No.30923 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.30923 of 2018

K.Vijaya

W/o.P.Loganathan

..Petitioner

Vs.

1. The Joint Director (Secondary Education),
School Education Department,
DPI Campus, Chennai – 600 006.

2. The Chief Educational Officer,
Raja Street, Coimbatore District,
Coimbatore – 641 001.

3. The District Educational Officer,
Raja Street, Coimbatore District,
Coimbatore – 641 001.

4. The Secretary & Correspondent,
Maranna Gowder High School,
Sullivan Street, Coimbatore – 641 001.

5. Thiru S.Balaji,
B.T. Assistant, Social Science,
Maranna Gowder High School,
Sullivan Street, Coimbatore – 641 001.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for Writ of Mandamus, directing the respondents 1 to 3 to dispose the petitioner's representation dated 31.08.2018 and cancel the order issued in favour of 5th respondent as B.T.Assistant, Social Science in the 4th respondent school.

For Petitioner : Mr.D.Bharathy

For Respondents : Mr.R.U.Dinesh Raj Kumar
Additional Government Pleader
[RR1 to 3]
Mr.V.Sivakumar [R4]
Mr.S.Mukunth for
M/s.Sarvabhauman Associates
[R5]

ORDER

The prayer sought for herein is for a writ of mandamus, to direct the respondents 1 to 3 to dispose the petitioner's representation dated 31.08.2018 and cancel the order issued in favour of 5th respondent as B.T.Assistant, Social Science in the 4th respondent school.



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2. The petitioner was initially appointed as Secondary Grade Teacher at an aided school called S.P.Narasimalu Naidu Memorial High School. Thereafter in the year 2001, the petitioner was transferred to Maranna Gowder High School with 11 years service by order of the Chief Educational Officer dated 31.08.2001.

3. Thereafter, the petitioner completed B.Ed, degree and M.A. degree (History), for which, additional incentive increments also had been paid to the petitioner.

4. While so, according to the petitioner there is a post called B.T.Assistant, Social Science, which was lying vacant in the fourth respondent school for several years and in order to fill up the post, service candidate like the petitioner can be given preference, as the petitioner is having the necessary qualification to hold the post of B.T. Assistant, Social Science in the fourth respondent school. Therefore, the petitioner had made an application to the Management of the fourth respondent school, however that was not considered and thereafter, the fifth respondent has been posted as B.T. Assistant, Social Science in the



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said school without considering the long service of 29 years as put in by the petitioner, who is the senior comparing with the fifth respondent.

Therefore, in order to appoint the petitioner in the said post of B.T. Assistant, Social Science in the fourth respondent school in the place of the fifth respondent, she has made a representation to the respondents on 31.08.2018, which was not considered by them. Therefore, she approached this Court by filing the present writ petition with the aforesaid prayer.

5. Heard Mr.D.Bharathy, learned counsel appearing for the petitioner, who having reiterated the aforesaid would seeks indulgence of this Court to issue a direction to the official respondents to consider the candidature of the petitioner to appoint her in the post of B.T. Assistant, Social Science in the fourth respondent school.

6. Heard Mr.R.U.Dinesh Raj Kumar, learned Additional Government Pleader appearing for the official respondents, who relied upon the following averments made in the counter affidavit filed by the second respondent:



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“10) The 5th respondent in his letter dated 01.08.2018 addressed to the 2nd respondent stated that if there is no possibility to deploy him as Headmaster in the needy school, and he expressed his willingness to work as B.T. Assistant (Social Science) in any of the Non Minority Aided Schools. Immediately the 2nd respondent take necessary to steps to down grade him in the existing vacancy of B.T.Assistant (Social Science) of the defunct school and transfer him on deployment along with the post to the 4th respondent school which has no B.T.Assistant post for Social Science. The 5th respondent joined in the 4th respondent school as B.T.Assistant (Social Science) on the Afternoon of 24.08.2018. This is the fact. While so, the petitioner misunderstood the above fact filed the writ petition before the Hon'ble High Court.

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15) Regarding Para 7 to 9 it is submitted that the 4th respondent school has not sanctioned B.T Assistant (Social Science) post. According to the students strength as on 1st August maintained by the 4th respondent school the 3rd respondent fixed the staff strength every year. Based on the students strength there is no need of additional post to the 4th respondent school. Hence the post of B.T.Assistant (Social Science)



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was not sanctioned to the school. The department is bound to give job protection to a teacher who is working in the sanctioned post. As the 5th respondent was found a surplus teacher in Sri S.P.Narasimmalu Naidu Memorial High School, Coimbatore he was transferred to 4th respondent school as per section 26 of Tamilnadu Private School Regulation Act 1973 and Rules 1974. It is also submitted that the petitioner was also transferred to the 4th respondent school on deployment from the school where the 5th respondent worked.”

7. By relying upon these averments, learned Additional Government Pleader would contend that there is no post called B.T. Assistant, Social Science sanctioned to the fourth respondent school.

8. Insofar as the fifth respondent is concerned, he expressed his willingness to work as B.T. Assistant, Social Science in any of the non minority aided school, therefore, the second respondent had taken necessary steps to down grade the fifth respondent in the existing vacancy of the B.T. Assistant, Social Science of the defunct school and transferred him on deployment along with the post to the fourth



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respondent school, which has no B.T. Assistant post for Social Science.

The fifth respondent joined in the fourth respondent school as B.T. Assistant, Social Science, on the afternoon of 24.08.2018, therefore, in this regard, the petitioner has misunderstood as if the B.T. Assistant, Social Science post has already been sanctioned to the fourth respondent school, wherein, the fifth respondent has been appointed without considering the candidature of the petitioner.

9. The same arguments is adopted by the learned counsel appearing for the fourth respondent school also.

10. I have considered the said submission made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

11. Since it is a categorical assertion on the part of the official respondents that there is no sanctioned post of B.T. Assistant, Social Science in the fourth respondent school and this has been clearly averred in paragraph 15 of the counter affidavit as has been quoted herein above,



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the post of B.T. Assistant, Social Science, where the fifth respondent was working in some other school has become defunct, therefore, he wanted to shift him to any other non minority aided school along with the post called B.T. Assistant, Social Science and accordingly, the fifth respondent, who was working as Headmaster in another school, which has become defunct, has been transferred by down grading his position from Headmaster to B.T. Assistant, Social Science from that defunct school to the fourth respondent school and accordingly, he was appointed in the fourth respondent school on 24.08.2018. Therefore, it cannot be claimed by the petitioner that the post of B.T. Assistant, Social Science has already been sanctioned to the fourth respondent school and it has been kept vacant for several years, for which, the candidature of the petitioner was not considered as projected by the petitioner, as the said post has never been sanctioned, excepting the transfer of the fifth respondent along with the post from a defunct school. Therefore, the plea raised by the petitioner for considering him to appoint in the post of B.T. Assistant, Social Science at fourth respondent school does not arise. Hence, the plea raised by the petitioner to consider her representation in this regard made to the official respondents also cannot be granted.



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WEB COPY 12. In that view of the matter, this Court has no hesitation to hold that the petitioner has not made out a case, hence, the writ petition fails and accordingly it is dismissed. No costs.

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Index : Yes/No

Internet: Yes/No

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To

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R.SURESH KUMAR.J.

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