



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2022

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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W.P(MD)No.266 of 2022

N.I.John Benjamin

... Petitioner

Vs.

1.The Commissioner of School Education,
E.V.K.Sampath Maaligai, DPI Campus,
College Road, Numgambakkam,
Chennai-600 006

2.The Director of School Education,
E.V.K.Sampath Maaligai, DPI Campus,
College Road, Numgambakkam,
Chennai-600 006.

3.The Joint Director of School Education(Personnel),
E.V.K.Sampath Maaligai, DPI Campus,
College Road, Numgambakkam,
Chennai-600 006.

4.The Chief Educational Officer,
O/s.The Chief Educational Officer,
Virudhunagar District,
Virudhunagar.

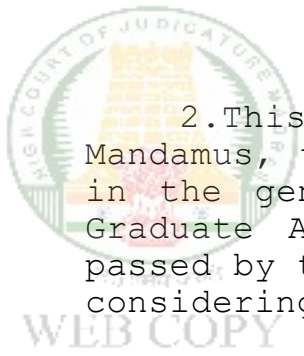
... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to provide priority to the petitioner in the general counselling to be conducted for transfer of the Graduate Assistant Teachers(B.T.Assistant) in view of the order passed by this Court in WP(MD) No.22337 of 2021 dated 16.12.2021 by considering the petitioner's representation dated 25.10.2021.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mr.S.Saji Bino, Spl G.P

ORDER

Heard Mr.D.Shanmugaraja Sethupathi, learned counsel appearing for the petitioner and Mr.S.Saji Bino, learned Special Government Pleader appearing for the respondents.



2.This Writ Petition has been filed seeking for issuance of a Mandamus, to the respondents to provide priority to the petitioner in the general counselling to be conducted for transfer of the Graduate Assistant Teachers(B.T.Assistant) in view of the order passed by this Court in WP(MD) No.22337 of 2021 dated 16.12.2021 by considering the petitioner's representation dated 25.10.2021..

3.By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4.The case of the petitioner is that he has been initially appointed as Block Resource Teacher Educator (Mathematics) (in short, 'BRTE) by the third respondent/the Joint Director of School Education(Personnel) vide proceedings dated 14.07.2006. The first respondent has issued GO(Ms) No.16, School Education(Q2) Department dated 05.02.2002, whereby, the third respondent was directed to be the Nodal Agency for recruiting Block Resource Teachers and the petitioner all along has been working as BRTE pursuant to the issuance of the said Government Order. The Government, vide G.O(1D)No.134, School Education (Pa.Ka.5)(1) Department dated 18.08.2021 framed certain guidelines for conducting transfer counselling and also conversion of BRTEs as BT Assistants to the Government High Schools and Higher Secondary Schools. By the said Government Order, 500 senior most BRTEs were transferred and posted as BT Assistants irrespective of their willingness. The said Government Order was challenged by the similarly placed BRTEs in WP(MD) Nos.16310 of 2021 etc., batch and this Court, vide order dated 24.11.2021 while dismissing the Writ Petitions, has observed as under in paragraphs 29 to 31:

"29.In view of the above position and the guidelines of the Hon-ble Supreme Court, this Court is not inclined to entertain these writ petitions.

30.During the course of arguments, it is represented that among the 500 BRTEs, who are identified as the senior most persons, as per Clause 4(1)(m) of the impugned Government Order, 420 persons have not challenged the Government Order, participated in the Counselling and they have been accommodated in the respective places. These petitioners have also participated in the Counselling, however, no orders have been issued in view of the pendency of the writ petitions.

31.At this juncture, learned Additional Advocate General brought to the notice of this Court that the general counselling is yet to commence for BT Assistants and that if the petitioners are not inclined to take any place, which is available in the transfer counselling, they can opt for the



general counselling and that they would be given priority at the time of general counselling. This submission made by the learned Additional Advocate General stands recorded.

In the result, these writ petitions stand dismissed. There shall be no order as to costs. Pending interim orders shall stand vacated and consequently, all the connected miscellaneous petitions shall stand dismissed.''

5.By referring to the above earlier order of this Court, the learned counsel for the petitioner submits that the petitioner is also the similarly placed person as that of the persons who approached this Court in WP(MD) Nos.22337 of 2021 etc batch, and therefore, he is also entitled to get priority in the general counselling as extended to the writ petitioners in the above said batch of writ petitions. Therefore, apprehending that he may not get the relief at the time of counselling, the petitioner come forward by way of the present Writ Petition.

6. Mr.S.Saji Bino, learned Special Government Pleader, who takes notice for the respondents would submit that this petitioner may not get the benefit which was granted earlier since priority has been provided in respect of those who filed the Writ Petition before this Court and the same cannot be taken advantage by this petitioner since he had not approached this Court challenging the Government Order earlier and thereby, he is not entitled for the same.

7.Though, the learned Special Government Pleader opposed that the petitioner is not entitled for the relief, the earlier order has been passed based on the undertaking given by the learned Additional Advocate General. Considering the fact that these persons who have been appointed as BRTEs in the year 2002 have been permitted to work as BRTEs, in the same posts for several years by way of G.O.Ms.No.134, dated 18.08.2021, a decision has been taken by the Government to post senior most 500 BRTEs as BT Assistants. Some of the BRTEs challenged the relevant portion of conversion of BRTEs to BT Assistants in WP(MD)No.16310 of 2021 and etc., batch and the same was dismissed by this Court by order dated 24.11.2021. However, during the course of hearing in the above writ petitions, the learned Additional Advocate General has submitted that those petitioners would be considered and would be given preference during the general counselling. Though the petitioner herein is not the party to the above Writ Petitions, she is also a similarly placed person that of those Writ Petitioners in WP(MD)No.16310 of 2021 and etc., batch and therefore, he is also entitled for a preference during the general counselling. The statement made by the learned Additional Advocate General is binding on all



the similarly placed persons.

8. Accordingly, with the above observation, this Writ Petition is disposed of. No costs.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

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Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The Commissioner of School Education,
E.V.K.Sampath Maaligai, DPI Campus,
College Road, Numgambakkam,
Chennai-600 006

2.The Director of School Education,
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4.The Chief Educational Officer,
O/s.The Chief Educational Officer,
Virudhunagar District,
Virudhunagar.

+1 CC to M/s.SPL.GP (SR-998[F] dated 10/01/2022)

W.P (MD) No.266 of 2022
07.01.2022

AP (21.01.2022) 4P 6C

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