



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD)No.1359 of 2022

and

W.M.P. (MD)Nos.1205, 1206 and 1208 of 2022

T.Muthu Kamatchi Devi

... Petitioner

versus

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary to
Government,
(School Education Department)
Fort St. George, Chennai - 9.

2. The Commissioner of School Education,
DPI Campus, College Road,
Nungampakkam,
Chennai - 6.

3. The Joint Director (Personnel),
Department of School Education,
DPI Campus, College Road,
Nungampakkam,
Chennai - 6.

4. The Chief Educational Officer,
Ramanathapuram,
Ramanathapuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to impugned proceedings in Na.Ka.No.25154/A1/E2/2021 dated 10/01/2022 of the second respondent herein and quash the same and consequently, direct the respondent herein to permit the petitioner to take part in the transfer counselling scheduled to be held on 18.02.2022 or any other subsequent dates by placing the petitioner under widow priority quota in the light of the order of this Court dated 07.01.2022 passed in W.P. (MD)No.266 of 2022.

For Petitioner : Mr.t.Pon Ramkumar

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader



ORDER

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

2. This writ petition has been filed for Writ of Certiorarified Mandamus, to call for the records relating to impugned proceedings in Na.Ka.No.25154/A1/E2/2021 dated 10/01/2022 of the second respondent herein and quash the same and consequently, direct the respondent herein to permit the petitioner to take part in the transfer counselling scheduled to be held on 18.02.2022 or any other subsequent dates by placing the petitioner under widow priority quota in the light of the order of this Court dated 07.01.2022 passed in W.P.(MD)No.266 of 2022.

3. The learned counsel appearing for the petitioner submits that a similar writ petition filed by a similarly placed person in W.P.(MD)No.266 of 2022 was disposed of by this Court, vide order dated 07.01.2022. Therefore, this writ petition may be disposed of on similar lines as per the order passed by this Court in W.P.(MD) No.266 of 2022.

4. At this juncture, it is relevant to extract the order passed by this Court in the similar writ petition filed in W.P.(MD) No.266 of 2022, on 07.01.2022 and the same is extracted hereunder:

"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 present 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, she is also entitled for a preference during the general counselling. The statement made by the learned Additional Advocate General is the statement of the Government and is binding on all the similarly placed persons.

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

5. If the petitioner is appointed as Block Resource Teacher Educator (BRTE) and converted as BT Assistant, she is also entitled for the above relief. Therefore, this writ petition are disposed of in the above terms. No costs.

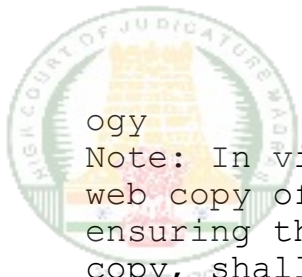
Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



ogy

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.

WEB COPY

To

1. The Principal Secretary to
Government,
(School Education Department)
Fort St. George, Chennai - 9.
2. The Commissioner of School Education,
DPI Campus, College Road,
Nungampakkam,
Chennai - 6.
3. The Joint Director (Personnel),
Department of School Education,
DPI Campus, College Road,
Nungampakkam,
Chennai - 6.
4. The Chief Educational Officer,
Ramanathapuram,
Ramanathapuram District.

+1 CC to M/s.T.PON RAMKUMAR, Advocate (SR-2709[F] dated 28/01/2022)

+1 CC to M/s.SPL.GP (SR-2787[F] dated 28/01/2022)

W.P (MD) No.1359 of 2022
27.01.2022

nsn(CO)

TR(21.02.2022) 5P 7C