



W.P(MD)No.15448 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15448 of 2021

and

W.M.P.(MD)No.12347 of 2021

K.Amala Devi

... Petitioner

Vs.

1.The Director, Directorate of School Education,
D.P.I.Campus,
College Road,
Chennai-6.

2.The Joint Director (Higher Secondary)
D.P.I.Campus,
College Road,
Chennai-6.

3.The Chief Educational Officer,
Kokkirakulam,
Collectorate Campus,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in his proceedings Na.Ka.No. 030109/W2/E2/2019, dated 23.06.2021 and consequently, direct the second respondent to fix the petitioner seniority and salary on par with his juniors who were promoted on 18.06.2018.



W.P(MD)No.15448 of 2021

For Petitioner : Mr.V.Perumal
For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner joined the Education Department as BT Assistant (Science) in the year 2006. When she was working at Gangaikondan in Tirunelveli District, the third respondent published the list of eligible teachers for promotion as PG Assistant and scheduled online counselling on 18.06.2018 at Tirunelveli. The specific allegation of the writ petitioner is that vacancies available in Tirunelveli District for the post of Post Graduate Assistant in chemistry subject were suppressed. The petitioner was not inclined to join in the said post in other district. She lodged her protest that since the vacancies available in Tirunelveli District were suppressed, she was walking out of the counselling session. This is the version projected by the writ petitioner. The third respondent thereafter passed an order dated 18.06.2018 holding that since the writ petitioner had relinquished her promotional prospect, she will not be considered for promotion for the next three years. Questioning the same, the petitioner filed W.P.(MD)No.154 of 2019. Vide order dated 22.04.2019, the



W.P(MD)No.15448 of 2021

order passed by the third respondent herein was set aside and the matter was remitted to his file for reconsidering the petitioner's case in future counselling.

Pursuant thereto, the petitioner was given temporary promotion in the post of PG Assistant (Chemistry) vide proceedings dated 21.10.2020 on the file of the Joint Director (Higher Secondary), Chennai-6. The petitioner however alleged that her juniors are functioning as P.G. Assistants in Tirunelveli District and that she should be placed on par with them. This request was rejected by the impugned order dated 23.06.2021. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant parity of treatment on par with the petitioner's erstwhile juniors.

4. The respondents have filed a detailed counter affidavit and the learned Additional Government Pleader took me through its contents. He submitted that it is simply impossible to grant relief sought for by the petitioner and called upon this Court to dismiss the writ petition. He also strongly denied the allegations made by the writ petitioner.



W.P(MD)No.15448 of 2021

5. I carefully considered the rival contentions and went through the materials on record.

6. The erstwhile juniors of the writ petitioner were promoted as P.G. Assistants in the year 2018. The writ petitioner wants to be placed on par with them. By the impugned order, the authority had declined the said request. The question that arises for consideration is whether the petitioner's request can be accepted. As rightly pointed out by the learned Additional Government Pleader, the writ petitioner was promoted as P.G.Assistant vide proceedings dated 21.10.2020. Therefore, she can reckon her seniority only with effect from the said date. She cannot travel back in point of time. That apart, when the writ petitioner earlier filed W.P.(MD)No.154 of 2019 challenging the order dated 18.06.2018 passed by the third respondent herein foreclosing her promotion for three years, even while setting aside the said order, this Court had directed that the petitioner should be considered for future counselling. The said order has become final. The petitioner has also not questioned the promotion order granted to her vide proceedings dated 21.10.2020. In these circumstances, there is simply no basis for considering her claim that she should be placed on par with her erstwhile juniors who were promoted as P.G. Assistants in the year 2018 itself.



W.P(MD)No.15448 of 2021

7. I sustain the impugned order and decline to grant the relief sought for in the writ petition. At the same time, I cannot lose sight of certain disturbing facts that appear on record. The writ petitioner specifically alleged that vacancies available in the post of P.G.Assistant (Chemistry) in Tirunelveli District were suppressed in the online counselling held on 18.06.2018 at Tirunelveli. It is her further case that her erstwhile juniors namely Stella Jeyaselvi and Mary Jeyamalar were given promotion as P.G.Assistants on 20.06.2018 and posted as P.G.Assistants (Chemistry) in Government Girls Higher Secondary School, Thirupalaikudi, Ramanathapuram and Government Higher Secondary School, Peravurani, Thanjavur District respectively and they were able to get transfer to the Government High School, Thalapathi Samuthram, Tirunelveli and Government Girls Higher Secondary School, Pavoorsathiram, Tirunelveli District on 14.11.2018 & 23.11.2018. In other words, within five months, after being posted at Ramanathapuram and Thanjavur District respectively, they were able to maneuver their way to Tirunelveli District. The specific allegation of the petitioner is that these vacancies were very much available even in the online counselling held in June 2018. If those vacancies had been notified, the petitioner would obviously had opted for the same. This is a serious allegation.



W.P(MD)No.15448 of 2021

8. I therefore permit the petitioner herein to lodge a fresh complaint setting out all these facts before the Director of Vigilance and Anticorruption, Chennai. The said authority will conduct an enquiry into the petitioner's complaint and take appropriate action in accordance with law. The Writ Petition is dismissed with the aforesaid liberty and direction. No costs. Consequently, connected miscellaneous petition is closed.

28.10.2022

Index : Yes / No
Internet : Yes/ No
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NOTE: Registry is directed to mark a copy of this order to Director of Vigilance and Anticorruption, Alandur, Chennai-600016.

To

1.The Director, Directorate of School Education,
D.P.I.Campus,
College Road,
Chennai-6.

2.The Joint Director (Higher Secondary)
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W.P(MD)No.15448 of 2021

G.R.SWAMINATHAN, J.

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