



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on :04.04.2022

Pronounced on :07.04.2022

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.16974 of 2019

N.Nirmala Mary

... Petitioner

Vs.

1.The Director of Elementary Education,
Directorate of Elementary Education,
College Road,
Chennai-6.

2.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Dindigul-1.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.009479/Aail/2019, dated 17.07.2019 on the file of the respondent No.1 and quash the same as illegal and consequently, to direct the respondent No.1 to promote the petitioner as the Block Educational Officer in the vacant post in Ottanchathiram Block, Palani Educational District, Dindigul District within the time stipulated by this Court.

For Petitioner : Mr.S.Louis

For Respondents : Mr.G.V.Vairam Santhosh

Additional Government Pleader

ORDER

The order of rejection rejecting the claim of the writ petitioner for promotion to the post of Block Educational Officer, is under challenge in the present writ petition.

2.The petitioner was serving as a Block Development Officer from 01.06.2017. On account of certain dispute between other employees and the school, the petitioner states that he was relieved temporarily from the post of Block Educational Officer and joined duty as the Middle School Headmistress at Balakrishnapuram. However, after some time, the petitioner approached the third respondent and expressed her willingness to join duty as Block Educational Officer either at Ottanchathiram or Palani and she has submitted a representation dated 19.03.2019 to the first respondent. The said representation was not considered. Thus, the petitioner filed a writ petition in W.P(MD)No.12673 of 2019 to dispose of the representation and this Court passed an order dated 29.05.2019 directing the respondents to consider the representation.



3.The learned counsel for the petitioner referring the order passed in W.P(MD)No.12673 of 2019 and made a submission that this Court made an observations as follows:

"I am of the view that the case on hand will have to be approached from a different perspective. It is not in dispute that the petitioner was earlier working as Block Educational Officer. Only on account of the extraordinary circumstances already referred to above, she had to temporarily relieve herself and go back as a headmistress.

Therefore, in the interest of justice, this Court directs the first respondent to consider the petitioner's representation dated 21.05.2019 and pass orders thereon within a period of four weeks from the date of receipt of a copy of this order."

In view of the above observations, the case of the petitioner ought to have considered favourably. Contrarily, his claim was rejected.

4.This Court is of the considered opinion that the observations made by this Court are based on the submissions made by the petitioner. However, this Court directed the authorities to consider the representation. The observations are to be considered by the competent authority. Once an order of direction to dispose of the writ petition is granted, all observations made in the order are for consideration of the competent authority and cannot be construed as a positive direction. Therefore, the order directing the authorities to consider the representation would not confer any right on the petitioner to claim that the respondents ought to have passed an order in her favour. All such observations made are based on the submissions made by the petitioner and such observations are only for the purpose of consideration by the competent authority. Therefore, the very submission made by the learned counsel for the petitioner deserves no merit consideration.

5.With reference to the facts and circumstances are concerned, admittedly, the petitioner relinquished her promotion in the post of Block Educational Officer. Temporary relinquishment is for three years and permanent relinquishment will result in denial of promotion throughout her career. In the present case, the petitioner states that she has temporarily relinquished her promotion and thereafter, submitted an application, if so, the relinquishment of promotion will be in force for three years, as per the Service Rules in force. In these circumstances, this Court is of the opinion that the employee, who has relinquished the right of promotion cannot turn around and submit a representation for grant of promotion. If at all the petitioner has permanently relinquished, then, she is not entitled for further promotion and if temporarily relinquishment was made, then she is entitled for promotion, after completion of 3 years of service.



6.This being the rule applicable in the matter of relinquishment of promotion and there is no infirmity or perversity in respect of the order of rejection passed by the respondents. Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Director of Elementary Education,
Directorate of Elementary Education,
College Road,
Chennai-6.

2.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Dindigul-1.

+1 CC to M/s.SPL.GP (SR-17509[F] dated 08/04/2022)

+1 CC to M/s.S. LOUIS, Advocate (SR-17118[F] dated 07/04/2022)

W.P. (MD)No.16974 of 2019
07.04.2022

SJ(CO)

KB(19.04.2022) 3P 5C