



W.P(MD)No.24291 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24291 of 2018

and

W.M.P(MD)Nos.21973, 21974 of 2018
& 8645 of 2022

R.Padmavathy

... Petitioner

Vs

1.The Chief Educational Officer,
Dindigul District,
Palani Road,
Dindigul.

2.The District Educational Officer,
Vathalakundu – 624 202,
Dindigul District.

3.The Secretary,
H.N.U.P.R. Girls Higher Secondary School,
Nilakottai – 624 208,
Dindigul District.

4.S.Uma Devi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order passed by the first respondent in



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Ni.Mu.No.10036/E1/2019 dated 05.12.2019 approving the promotion given to the fourth respondent as PG Economics Teacher in H.N.U.P.R Girls Higher Secondary School, Nilakottai - 624 208, Dindigul District, with effect from 01.09.2018 and quash the same and directing the third respondent to promote the petitioner in accordance with Rule 15 (4) of TNPSR Rules, 1974.

(Prayer amended vide Court Order dated 25.07.2022 in WMP(MD).8643 of 2022 in W.P(MD)No.24291 of 2018).

For Petitioner : Mr.K.K.Kannan

For Respondents : Mr.S.Shaji Bino
Special Government Pleader
for R.1 & R.2

Mr.R.Narayanan for R.3

Mr.B.Rooban for R.4

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is employed as Music Teacher in the third respondent School. The third respondent School is an aided non minority Institution. Vacancies arose in the post of P.G.Assistant (Tamil). The Management appointed the fourth respondent herein in the said vacancy. The Management submitted a proposal to the department for approval of the said appointment. Approval was granted. Questioning the same, the present writ petition has been filed.



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3.The learned counsel appearing on either side reiterated the contentions set out in the respective pleadings. I carefully considered the rival contentions and went through the materials on record.

4.The writ petitioner is possessing qualification required for the post of P.G.Assistant (Economics). However, the question is whether the petitioner was wrongfully overlooked. It is not in dispute that recruitment to the said post is governed by Rule 15(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974. It reads as follows :

“15. Qualifications, conditions of service of teachers and other persons. -

.....

(4)(i) Promotion shall be made on grounds of merit and ability, seniority being considered only when merit and ability are approximately equal.

[(ii) Appointments to the various categories of teachers shall be made by the following methods: -

(i) Promotion among the qualified teachers in that school ; or

(ii) Promotion from among the qualified Vocational Instructors in that School ;



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(iii) If no qualified and suitable candidate is available by method (i) and (ii) above, -

- (a) Appointment of other persons employed in that school, provided they are fully qualified to hold the post of Teachers ;
- (b) Appointment of teachers from any other school ;
- (c) Direct recruitment.]

In the case of appointment from any other school or by direct recruitment the School Committee shall obtain the prior permission of the District Educational Officer in respect of Pre-primary, Primary and Middle School and that of the Chief Educational Officer in respect of High Schools and Higher Secondary Schools, Teacher Training Institutions setting out the reasons for such appointment. In respect of corporate body running more than one school, the schools under that body shall be treated as one unit for purpose of this rule.

(d) Appointment to the post of Headmaster of Higher Secondary School shall be made by the method specified in clause (ii) either from the category of Headmasters of High Schools or Teachers' Training Institutes or from the category of Post-Graduate Assistants in academic subjects or Post-Graduate Assistants in Languages provided they possess the prescribed qualifications.”



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5.The petitioner being a Music Teacher can only be considered as a vocational instructor. She thus falls within the category set out in Rule 15(4) (ii)(ii). Only if there are no qualified candidates among those under Rule 15(4) (ii)(ii) in the School in question, the petitioner's case will have to be considered. The fourth respondent herein was working as B.T Teacher (Tamil) in the third respondent School. It is not in dispute that the fourth respondent possessed the requisite qualification for the post in question. Therefore, the Management rightly appointed the fourth respondent as P.G Assistant (Economics) and the department rightly granted approval. Since the petitioner came under the next category, the management rightly did not consider the petitioner's case for promotion even though the petitioner was otherwise qualified. There is no ground for interference.

6. This writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

08.11.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To

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