



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No.15135 of 2016

WEB COPY

T.Johnsy Thanga Bai

... Petitioner

vs.

1.The Director of School Education,
Chennai - 600 006.

2.The Joint Director of School Education,
(HSE) (In-Charge), Chennai - 600 006.

3.The Chief Educational Officer,
School Education Department,
Tirunelveli District.

4.The Headmistress,
Government Girls Higher Secondary School,
Sankarankoil, Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents 1 to 3 herein to include the petitioner,s name in the Transfer cum Promotion Tentative List of B.T.Assistant to P.G.Assistant Commerce (Cross Major) as on 01.01.2016 released by the 2nd respondent herein in his proceedings, vide Na.Ka.No.150616/W3/E2/2016, dated .07.2016, by fixing the petitioner's seniority in appropriate place from the date of her joining in the service namely 08.09.2004 on the basis of her representation made through proper channel before 3rd respondent herein, dated 29.07.2016 within a stipulated time fixed by this Court.

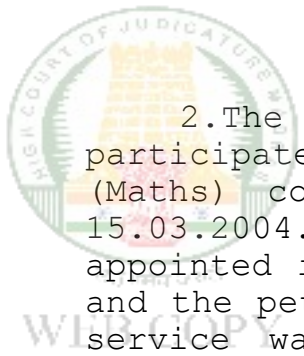
For Petitioner : Mr.B.Brijesh Kishore

For Respondents : Mr.V.Om Prakash

Government Advocate (Civil side)

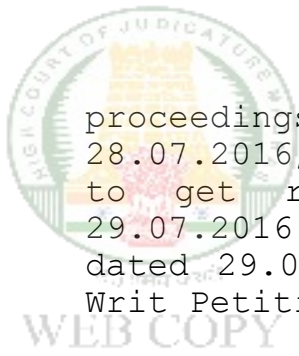
O R D E R

This Writ Petition is filed for issuance of a Writ of Mandamus, to direct the respondents to include the petitioner's name in the transfer and promotion list of B.T. Assistant to P.G. Assistant, Commerce (Cross Major) as on 01.01.2016 released, vide impugned proceedings, dated Nil.07.2016, by fixing the petitioner's seniority in appropriate place from the date of joining in the service, i.e., 08.09.2004, on the basis of the representation, dated 29.07.2016.



2.The brief facts of the case are that the petitioner participated in the certificate verification for B.T. Assistant (Maths) conducted by Teachers Recruitment Board, Chennai, dated 15.03.2004. The petitioner was selected on 16.08.2004 and was appointed in Chennai in Girls Higher Secondary School, Nungambakkam and the petitioner joined the duty on 08.09.2004. The petitioner's service was regularized with effect from 22.08.2006. All the Government Teachers are permitted to participate in the counseling to be conducted on 19.05.2010 in the concerned District. Since the petitioner was working in the Corporation School, the petitioner was prevented from participating in the said counselling. Aggrieved over the same, the petitioner filed a Writ Petition in W.P.(MD)No.6776 of 2010 with prayer to direct the respondents to allow the petitioner to participate in the counseling to be conducted for the purpose of transfer in Tirunelveli District and this Court directed the respondents to permit the petitioner, vide order, dated 14.05.2010. In the transfer counselling, the petitioner was transferred from Chennai Corporation Girls Higher Secondary School, Nungambakkam to Government High School, Mancholai, Tirunelveli District, by the proceedings of the 4th respondent, dated 19.05.2010. In spite of the same, the petitioner was not relieved from the Chennai Corporation Girls Higher Secondary School. Again, the petitioner filed W.P.(MD) No.10285 of 2010 with a prayer to relieve the petitioner. This Court, vide order, dated 30.08.2010, allowed the Writ Petition directing the first respondent therein, to relieve the petitioner in order to join in Government High School, Manjulai, Tirunelveli District. On the basis of the order, the Educational Officer, Chennai Corporation, vide proceedings, dated 04.10.2010, has relieved the petitioner and the petitioner has joined Government High School, Manjulai, as B.T. Assistant (Maths) on 06.10.2010. Thereafter, on the basis of the proceedings of Joint Director of School Education, Chennai, dated 10.11.2011, the petitioner was transferred from Mancholai to Sankaranoil on administrative ground and the petitioner joined the place on 22.11.2011 and the petitioner presently acquired additional qualification of M.Com. degree.

3. The contention of the petitioner is that since the petitioner is qualified M.Com. degree, the petitioner is eligible for a P.G. Assistant, Commerce (Cross Major). The petitioner submitted a representation through proper channel to include the petitioner's name in promotion cum transfer tentative list from B.T. Assistant to P.G. Assistant Commerce (Cross Major) by fixing seniority and to grant promotion. The respondents have not considered till date. The second respondent has released, vide proceedings, dated Nil.07.2016, transfer cum promotion tentative list of B.T.Assistant and P.G.Assistant Commerce (Cross Major) as eligible persons as on 01.01.2006 for 128 persons. On further communication, he was informed that if there is any eligible person whose name is not included or omitted, then the concerned person can submit his representation through proper channel before the fourth respondent on or before 29.07.2016. On the basis of the above said



proceedings, the 4th respondent herein, vide proceedings, dated 28.07.2016, has issued a circular to all Head Masters in Tirunelveli to get representation from concerned Teachers on or before 29.07.2016. Therefore, the petitioner submitted his representation, dated 29.07.2016. Since the same was not considered, the present Writ Petition is filed.

4.The third respondent has filed a counter affidavit stating that since the seniority list for promotion to the post of Post Graduate teacher in Commerce was published covering the B.T. Assistants, whose date of seniority lies in the year 2009 and prior to the year 2009. However the petitioner has joined the Government service from 06.10.2010 onwards, which is the date, the petitioner joined duty in the transferred unit at her own request. She is not eligible to claim her seniority that was maintained in her service in the previous unit, i.e., Chennai Municipal Corporation School, because the Corporation and Municipal School are separate unit and the Government School are separate unit. As per G.O. (1D) No. 129, School Education (E1) Department, dated 09.05.2013, it is well stated that each of Chennai Municipal Corporation, Coimbatore Municipal Corporation and Madurai Municipal Corporation is separate unit. Hence, transfers under these Municipal Corporations from Government School or vice versa or transferred from one unit to another unit, the following conditions are imposed in G.O.Ms.No.209, School Education, dated 08.05.1997:

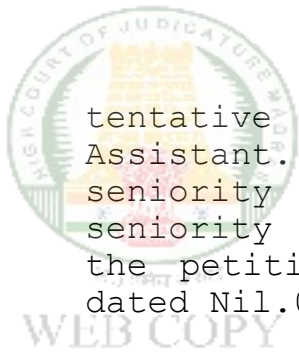
i)The Teachers who get transferred from one unit to another unit will be placed as junior most in the seniority in the transferred unit.

ii)There lien in the previous unit will be terminated after transfer to the main unit without prior notice.

5.Therefore, based on the above said two G.O.s, the seniority of the petitioner in her previous unit of Chennai Municipal Corporation is technically terminated after she joined new unit from 06.10.2010 and her seniority will commence from 06.10.2010. Therefore, the contention of the respondents is that the petitioner is eligible to place her seniority from 2010 only.

6.Heard Mr.B.Brijesh Kishore, learned Counsel appearing for the petitioner and Mr.V.Om Prakash, learned Government Advocate appearing for the respondents.

7. The petitioner was transferred from Chennai Municipal Corporation to the Government School based on her own request. as per G.O.(1D)No.129, School Education (E1) Department, dated 09.05.2013 and G.O.Ms.No.209, School Education, dated 08.05.1997 stated supra, the petitioner's seniority to the earlier unit of Chennai Municipal Corporation is terminated. Therefore, her seniority is maintained from 06.10.2010 onwards in the impugned



tentative transfer cum promotion list of B.T. Assistant to P.G. Assistant. There are 128 persons and the respondents have taken the seniority from the year 2009 onwards. Since the petitioner's seniority is from 2010 onwards, the respondents have not included the petitioner's name in the proceedings Na.Ka.150616/W3/E2/2016, dated Nil.07.2016.

8. Whenever any transfer from one unit to another unit is granted then the employee would be placed as junior most in the said unit. Likewise, whenever the employee is transferred from one department to another department, then also the employee would be placed as junior most in the said new department. In the present the Corporation School is a different set of schools and the Government Schools are different set of schools. If any employee is seeking transfer from Corporation School to Government School, then the employee ought to forge the seniority maintained in the earlier school. The petitioner was transferred from Corporation School to Government School based on the Court's order. Then the petitioner was relieved from the Corporation School based on the Court's order. Now the petitioner is claiming promotion, but the petitioner cannot claim promotion in a short cut method. Therefore, this Court is of the considered opinion that rightly the petitioner's name was not included in the said tentative list, wherein in the list the persons who are having seniority of 2009 or prior to 2009. The petitioner is eligible to be considered for the next panel i.e. when the respondents are considering the persons from 06.10.2010, onwards. The petitioner's name may be considered from 2010 onwards are not prior to 2010. Hence, the respondents are directed to consider the petitioner's name taking the seniority as 06.10.2010. The said exercise shall be completed within a period of four weeks.

9. With this direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

Tmg

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 Director of School Education,
Chennai - 600 006.

2.The Joint Director of School Education,
(HSE) (In-Charge), Chennai - 600 006.

3.The Chief Educational Officer,
School Education Department,
Tirunelveli District.

4.The Headmistress,
Government Girls Higher Secondary School,
Sankarankoil, Tirunelveli District.

+1 CC to M/s.B.BRIJESH KISHORE, Advocate (SR-13253[F]
dated 21/03/2022)

+1 CC to M/s.SPL GP (SR-13905[F] dated 23/03/2022)

W.P. (MD) No.15135 of 2016
21.03.2022

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