



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.9575 of 2016

and

W.M.P. (MD)Nos.7614 to 7616 of 2016

WEB COPY

S.Mary Stella Rani

... Petitioner

vs

1. The Director of School Education,
College Road, Chennai.

2. The Chief Educational Officer,
Nagercoil, Kanyakumari District.

3. The District Education Officer,
Kuzhithurai Educational District,
Marthandam, Kanyakumari District.

4. The Superintendent,
Kottar Diocese RC Schools,
Assisi Church Campus,
Nagercoil, Kanyakumari District.

5. St.Bernadettes Higher Secondary School,
represented by the Correspondent,
Mangalakuntu, Kanyakumari District.

6. The Headmaster,
St.Bernadettes Higher Secondary School,
Mangalakuntu,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to fill up the post of P.G.Assistant in History in the retirement vacancy of A.Jesumariyan who retired on 30.04.2016 only by promotion promoting the petitioner accordance with Rule 15 of Tamil Nadu Recognized Private Schools Regulation Rules in order to avoid deployment of excess B.T.Assistant Teachers (History) working in the 5th respondent school by considering the representation dated 17.02.2016 13.04.2016 and 29.04.2016.



For Petitioner : Mr.S.Herold Singh
For Respondents : Mr.V.Omprakash for R1 to R3
Government Advocate (Civil side)
Mr.K.Ragatheesh Kumar for R4 to R6

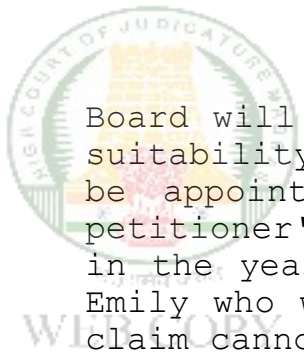
WEB COPY

O R D E R

This Writ Petition is filed for issuance of a Writ of Mandamus, directing the respondents to fill up the post of P.G.Assistant in History in the retirement Vacancy of A.Jesumariyan who retired on 30.04.2016 only by promotion promoting the petitioner in accordance with Rule 15 of Tamil Nadu Recognized Private Schools Regulation Rules in order to avoid deployment of excess B.T.Assistant Teachers (History) working in the fifth respondents School by considering the representation dated 17.02.2016, 13.04.2016 and 29.04.2016.

2. The petitioner qualified as B.A., History in the year 1994 and joined Diploma in Teacher Training, B.Ed., in the year 1994 and M.A (History) in the year 1997. The petitioner completed B.A. (Economics) and M.A.(Economics). Subsequently, the petitioner was working in the fourth and fifth respondent School which is an Aided Minority Educational Institution run by the Roman Catholic Diocese of Kottar receiving 100% grant. The petitioner was appointed in the fifth respondent School in the academic year 1999-2000 as a Secondary Grade Teacher. Thereafter, the petitioner was appointed as B.T.Assistant in the same School on 01.06.2009 in the promotion vacancy of one A.Jesumariyan. Since the petitioner was qualified in Economics, the petitioner would be considered in the forthcoming vacancy. The petitioner submitted a representation for the year 2011 to post the petitioner as P.G.Assistant, Economics in the retirement vacancy which fell vacant on 31.03.2011. The Management has considered all the eligible candidates and appointed one Jancy on 01.07.2011. In the year 2016, the said Jesumarian, P.G Assistant (History) attained superannuation on 30.04.2016. The petitioner submitted a representation to promote her in the said post. However, the Management after over all consideration of all the eligible candidates and considering of their respective merit, ability, suitability and also considering the seniority has selected one T.Pushpalatha as a meritorious candidate and appointed as P.G Assistant (History) with effect from 01.06.2016. Aggrieved over the same, the petitioner has preferred this present writ petition.

3. The respondents have filed a counter affidavit stating that the Diocese is following a procedure who are seeking employment and all the interested candidates will be enrolled in the list. Whenever vacancy arises the "Board" which is having authority will consider the candidates for new recruitment as well as for promotion. The Rule 15 is not applicable to the Minority Educational Institution and stated that Rule 15 is incorrect. Moreover, the



Board will consider all the candidates based on the merit, ability, suitability and seniority and the most meritorious candidates will be appointed. The contention of the respondents are that the petitioner's seniority cannot be considered since she was appointed in the year 2009. However, there is one more person, namely, Mary Emily who was appointed on 05.06.2002. Therefore, the petitioner's claim cannot be considered.

4. Heard Mr.S.C.Herold Singh, learned Counsel appearing for the petitioner, Mr.V.Omprakash, learned Government Advocate appearing for the respondent Nos.1 to 3 and Mr.K.Ragatheesh Kumar, learned Counsel appearing for the respondent Nos.4 to 6.

5. After perusing the records, it is seen that the petitioner is waiting for the promotion based on her P.G qualification to the P.G Assistant post. The petitioner's apprehension is that since there are surplus teachers, she will be deployed to some other post. It is seen from the records that there is surplus teachers in B.T. Tamil, B.T. Science, B.T. Social Science and Secondary Grade Teacher (Maths). The claim of the School is that the petitioner's apprehension cannot be entertained because whenever any vacancy arises, the School based on the Board's decision has appointed the teachers in the post or promote the teachers in the available vacancy. The contention of the respondents is that Rule 15 is not applicable to an Aided Minority School. But the petitioner has vehemently opposed the said claim of the respondents.

6. Since the school is considering the vacancy post based on the Board decision either for fresh recruitment or for promotion, this Court is of the considered opinion that the petitioner has not made out any case to interfere. Therefore, there is no merit in this writ petition. However, the respondent Nos.4 to 6 shall consider the petitioner's claim in accordance to the Rules, if the petitioner is otherwise eligible.

7. With the above observation, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition are closed.

Sd/-

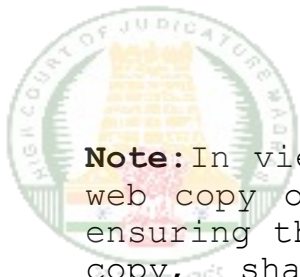
Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr



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 Director of School Education,
College Road, Chennai.
- 2.The Chief Educational Officer,
Nagercoil, Kanyakumari District.
- 3.The District Education Officer,
Kuzhithurai Educational District,
Marthandam, Kanyakumari District.
- 4.The Superintendent,
Kottar Diocese RC Schools,
Assisi Church Campus,
Nagercoil, Kanyakumari District.
5. The Correspondent,
St.Bernadettes Higher Secondary School,
Mangalakuntu, Kanyakumari District.
- 6.The Headmaster,
St.Bernadettes Higher Secondary School,
Mangalakuntu, Kanyakumari District.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-18815[F] dated 13/04/2022)

+1 CC to M/s.SPL.GP. (SR-18151[F] dated 12/04/2022)

Order made in
W.P. (MD)No.9575 of 2016
11.04.2022

SB(CO)

GC(20.06.2022) 4P 9C