



W.P. No.3370 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

17.03.2023

CORAM

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.3370 of 2018

and

W.M.P.No.4124 of 2018

S. Kavitha Devi
D/o Sugumar

... Petitioner

Vs.

1. The Commissioner (Education),
Chennai Corporation,
Rippon Building,
Chennai 600 003.

2. The Deputy Commissioner (Education),
Chennai Corporation,
Rippon Building,
Chennai – 600 003.

3. The Education Officer,
Education Department,
Chennai Corporation,
Chennai – 600 003.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the Respondents to



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promote the petitioner to the post of B.T Assistant (Maths) in the vacancies arose for the panel year 2010-11 retrospectively based on seniority, by taking into account the vacancies filled up by transfer from other units, with all consequential and other attendant benefits including arrears of salary in the post of B.T. Assistant (Maths) within a time frame to be fixed by this Court.

For Petitioner : Mr.S. Nedunchezhiyan
For Respondents :Mr. A. C. Mani Bharathi
Standing counsel

ORDER

This writ petition is filed praying for a writ of Mandamus directing the Respondents to promote the petitioner to the post of B.T Assistant (Maths) in the vacancies arose for the panel year 2010-11 retrospectively based on seniority, by taking into account the vacancies filled up by transfer from other units, with all consequential and other attendant benefits including arrears of salary in the post of B.T. Assistant (Maths).

2. The petitioner joined her services as Secondary Grade Teacher in Chennai Corporation during the year 2006 and she was eligible for promotion to the post of B.T. Assistant. Inspite of the petitioner being



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qualified for promotion and her name was included in the year 2010-2011, she was not granted promotion. The reason behind it is that every year teachers working in the Department of School Education which is different unit get transferred to Chennai and the Respondents are accommodating them in the promotion panel, due to which the petitioner's right for promotion being denied. Every year there will transfers to Chennai from other regions and Respondents ought to distinguish the teachers who joined the Services in the Chennai Corporation and the Teachers come by transfer to Chennai which is a different unit, while preparing the promotional panel and the same has not been done by the Respondent which resulted in difficulty in accommodating the petitioner for promotion. Hence this petition.

3. It was submitted by the petitioner that the vacancies should not be filled by accommodating the request of outsiders working in other units depriving the right of promotion of the eligible persons working in the Chennai Corporation. He further contend that the Respondents are proceeding to full up the said vacancies to accommodate the request transfer



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of BT Assistant from other units resulting in deprivation of petitioner's right of promotion. The further case is that the petitioner has also gave a representation to the authorities concerned regarding the said issue, however the same has not been considered.

4. The learned counsel further contend that as per Rule 4 of Tamil Nadu State and Subordinate Service Rules, “ the list of approved candidates for appointment by promotion and by recruitment by transfer to all the categories of posts shall be prepared annually against the estimated number of vacancies expected to arise during the course of year, the estimate of vacancies shall be prepared taking into account the total number of permanent posts in a category, the number of temporary posts in existence; the anticipated sanction of new posts in the next year; the recruitment post of leave reserves; the anticipated vacancies due to retirement and promotion etc., in the course of the year and the number of candidates already in position in the category. The list of approved candidate, so prepared shall be in force for a period of one year and shall lapse at the end of the year”.



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5. To the contrary it was submitted by the learned counsel for the respondents that the promotional panel was prepared every year depending upon the vacancies and the persons who are eligible for promotion was promoted and there is no deviation in the said rules. However the petitioner's representation will be considered on merits and in accordance with law.

6. Heard both sides and perused the materials available on record.

7. It is seen from records that the the respondent have prepared a promotional panel in the year 2010-2011,2011-2012,2012,13,2013-14 and 2015-2016 , but still they are not able to accommodate the petitioner in the promotional panel,which reveals the fact that the method adopted to prepare the promotional panel needs to be corrected in the way that they should to give priority to the teachers working in Chennai Coporation while preparing panel. Thus the petitioner is entitled to succeed in the writ petition.

8. On considering the facts and circumstances of the case, it is made



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clear there is no merit in the submission made by the respondents. Having said that, the prayer in the writ petition is to promote the petitioner to the post of B.T Assistant (Maths) in the vacancies arose for the panel year 2010-11 retrospectively based on seniority, by taking into account the vacancies filled up by transfer from other units, with all consequential and other attendant benefits including arrears of salary in the post of B.T. Assistant (Maths) needs to be granted. Hence this Court directs the Respondents, if the petitioner is found eligible for the said post she shall be granted promotion in the upcoming vacancies.

9. In view of the above this writ petition stands allowed. No costs. Consequently connected miscellaneous petition is closed.

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Speaking (or) Non Speaking Order

Index : Yes/ No

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V.BHAVANI SUBBAROYAN, J.

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