



W.P.No.6087 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	05.06.2023
Pronounced on	22.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.6087 of 2022
and
W.M.P.No.6175 of 2022

1.V.Murugesan

2.C.Nagarajan

3.S.Mathi

4.S.Selvaganesan

...Petitioners

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat,
Fort St. George,
Chennai - 600 009.

2.The Commissioner,
Directorate of School Education,
DPI Campus, College Road,
Chennai - 600 006.

3.The Member Secretary,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Compound, College Road,
Chennai - 600 006.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the second respondent in Na.Ka.No.38544/ W1/E1/2021 dated 05.11.2021 and to quash the same and consequently directing the respondents to pass orders for fixation of seniority of the petitioner in the post of PG Assistant by counting the services rendered from the date of initial appointment to the post of PG Assistant, including promotion to the post of Higher Secondary School Headmaster, with all consequential and other attendant service benefits.

For Petitioners : Mr.G.Sankaran, Senior Counsel
for Mr.G.R.Ramesh Prabbhu

For Respondent : Mr.P.Sanjay Gandhi,
Nos.1 & 2 Government Advocate

For Respondent-3: Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.C.Kathiravan,
Standing Counsel for TRB

ORDER

With the consent of both the parties, this Writ Petition is taken up for final disposal.

2. The petitioners herein were originally selected for the post of PG Assistants through the Teachers Recruitment Board (TRB) in the year 2002-2003 and were allotted to the Department of MBC & BC



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(Kallar Reclamation Schools). On their request, they were transferred to the School Education Department, through G.O.Ms.No.119, School Education Department, dated 03.06.2008. One of the conditions in the said transfer order was that, when the transfer is made on their request, they would be placed as the junior most Teacher in the seniority list. Accepting such a condition, the petitioners had joined their respective Schools in the School Education Department. The petitioners now challenge the order dated 05.11.2021, refusing to fix their seniority in the post of PG Assistants, by counting the services rendered from the date of their initial appointment.

3. The learned Senior Counsel appearing for the petitioners submitted that the second respondent ought to have considered the claim of the petitioners that they were originally allotted to Kallar Reclamation Schools without arriving the final selection list. Based on the total marks in the written examination and the service verification, which was conducted only at a later stage, after their allotment to the Kallar Reclamation Schools, the petitioners ought to have been allotted to School Education Department, since they had scored higher marks and therefore, the respondents' mistake should not be put against the petitioners herein. Thus, the petitioners would be entitled for



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restoration of their seniority from the date of their initial appointment i.e., from the date of joining the Kallar Reclamation Schools.

4. Per contra, the learned Government Advocate appearing for the respondents 1 and 2 placed reliance on the conditions in G.O.Ms.No.119, School Education Department, dated 03.06.2008 and submitted that since the petitioners had opted for transfer to the School Education Department on their own willingness, they have been precluded from claiming seniority by inclusion of their earlier service period in the Kallar Reclamation Schools.

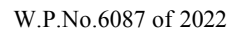
5. The petitioners were originally recruited to the post of PG Assistants in the Selection Process conducted by the Teacher's Recruitment Board (TRB) in the year 2002. The TRB being the Recruitment Agency, had published its final selection list, including the petitioners' names and the allotment of departments were made according to their rank in the merit list prepared by the TRB. Accordingly, the petitioners were appointed to the post of Post Graduate Assistants in various Government Kallar Reclamation Schools in the year 2002-2003. On the request made by these petitioners, the first respondent herein had considered the same and transferred them



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to the School Education Department through G.O. (Ms) No.7, School Education Department, dated 17.01.2002. This transfer was on condition that the seniority of these petitioners will be placed as junior most in the department as on the date of their joining, since the transfer is made on their own request. The petitioners have not objected to such a condition and had also given their consent and joined the School Education Department in the year 2008-2009. The condition stated in the Government Order in G.O. (Ms) No.209, dated 08.05.2007 was that the persons those who are transferred from one department to another on their own consent will be placed as junior most in their department as on the date of their joining. Having accepted such a pre-condition and having not challenged the same for more than 15 years, it is now not open to them to question this action. A claim, thus would be barred on the ground of 'delay and laches'.

6. The learned Senior counsel had raised a ground that the petitioners have been wrongly allotted to the Kallar Reclamation Schools in the year 2002, though they have scored higher marks than the candidates, who have been allotted to the School Education Department at that point of time. Such a statement is made after about 20 years. No satisfactory reason has been assigned as to why



7. Thus, when the petitioners have waived their rights by giving consent for placing them as junior most in the School Education Department at the time of their transfer, there is no justification for giving entitlement of their seniority from the date of their initial appointment.



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8. In the result, I do not find any merits in the present Writ Petition. Accordingly, the Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

22.06.2023

Index:Yes
Neutral Citation:Yes
Order : Speaking

DP

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
School Education Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
- 2.The Commissioner,
Directorate of School Education,
DPI Campus, College Road,
Chennai - 600 006.
- 3.The Member Secretary,
Teachers Recruitment Board,
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M.S.RAMESH,J.

DP

ORDER MADE IN

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and
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