



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 21.09.2023

Pronounced on : 27.09.2023

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.6438 of 2023
and W.M.P.Nos.6469 & 6471 of 2023

S.Elumalai

.. Petitioner

Versus

1.The Director of Adi-Dravida
and Tribal Welfare
Ezhilagam, Chepauk
Chennai – 600 005

2.The District Adi-Dravida
and Tribal Welfare
Villupuram District

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in connection with the impugned order passed by in Na.Ka.No.M3/9004/2022 dated 08.12.2022 and quash the same and direct the respondents to retain the petiitoner as B.T.Assistant (Social Science) as per counselling held for the post of B.T.Assistant (Social Science) for the year 2021 and grant him all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkatramani, Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.V.Jeevagiridhran



Additional Government Pleader

ORDER

WEB COPY This writ petition has been filed challenging the order passed by the second respondent in Na.Ka.No.M3/9004/2022 dated 08.12.2022, quash the same and direct the respondents to retain the petitioner as B.T.Assistant (Social Science) as per counselling held for the post of B.T.Assistant (Social Science) for the year 2021 and grant him all consequential service and monetary benefits..

2. The petitioner is the Headmaster of Adi Dravidar Welfare Primary School and he is fully qualified and eligible for consideration for promotion as B.T.Assistant (Social Science) for the year commencing from 01.03.2021. In Villupuram District, the counseling for promotion to the post of B.T.Assistant (Social Science) was conducted on 05.12.2022. The second respondent has shown as many 17 vacancies were available in the post of BT Assistant, including the Hostel Warden post vacant in respect of 4 Government Adi-dravida Girls Hostels. Hence, for the post of Social Science, the names of eligible B.T.Assistant (Social Science) were called for counseling. However, on the date of counseling on 05.12.2022, B.T.Assistant post available in the Government Adi-Dravida Girls hostel were not shown. Though the petitioner's



name was shown in Serial No.8 in respect of seniority, since, all his immediate seniors has given relinquishment for the period of three years for the promotion to the post of B.T.Assistant. The petitioner was given promotion as B.T.Assistant (Social Science) and posted to Government Adi Dravida Welfare Middle School, Pa Villiyanur, Villupuram District. The promotion order is also issued on 05.12.2022 by the second respondent. The petitioner was relieved from the post of Headmaster on 06.12.2022 and reported for duty as BT Assistant on 06.12.2022.

3. However, subsequently, the promotion order was cancelled by the second respondent on 08.12.2022 on the ground that the counseling has been conducted in violation of the Rules, i.e., 1:2 ratio ought to have been followed. Hence, it is the contention that the impugned order passed by the second respondent is unjust and illegal, there is no illegality or irregularity in conduct of the counseling for promotion to the post of B.T.Assistant. When the other seniors have relinquished their right of promotion for the next three years, thereafter, only the petitioner's claim has been considered, hence, cancelling the promotion order is not in order. Hence, seeks to quash the impugned order.



4. The counter has been filed by the second respondent that the petitioner was called for counseling on 05.12.2022 for promotion and appointment to the post of B.T.Assistant (Social Science) and the petitioner also participated in the counseling, wherein, his name appeared in serial no.8 in respect of seniority. That on the basis of the relinquishment by seniors of the petitioner, he was given a promotion which was later found that seniority list consists 10 individual names as on 01.03.2021 which were prepared to fill up one post of B.T.Assistant (Social Science) and it is more than the number of estimate of vacancies (approximately 1:2 ratio) as per G.O.Ms.No.368, Personnel and Administrative Reforms Department dated 18.10.1993. Therefore, it is the contention that relinquishment of the persons in Serial Nos.1 and 2 were accepted and the persons included in the seniority list from Serial Nos.3 to 10 have not been considered for promotion. Hence, the question of accepting or denying the relinquishment does not arise in this matter. Further, the person in Serial No.4 namely Ms.Vanitha, Second Grade Assistant, Adi Dravida Welfare Primary School, Pudupalayam also withdrawn her relinquishment on 09.01.2023. Hence, merely because 10 persons have been called for counseling will not enure the benefit to the petitioner and the counseling itself is against the norms fixed in the



G.O.Ms.No.368, Personnel and Administrative Reforms Department dated 18.10.1993, which has been later set right. Therefore, the impugned order cannot be challenged.

5. The learned counsel appearing for the petitioner mainly would submit that the petitioner has been called for counseling on 05.12.2022, the petitioner's name was found in Serial No.8, all his immediate seniors have given relinquishment. Therefore, the promotion order is issued to the petitioner and he joined as B.T.Assistant on 06.12.2022 itself. Further, the impugned order has been passed citing ratio to be followed as per G.O.Ms.No.368, Personnel and Administrative Reforms Department dated 18.10.1993. Hence, it is the contention that in other posts, the ratio stipulated in the G.O.Ms.No.368, Personnel and Administrative Reforms Department dated 18.10.1993 has not been followed. The impugned order has been passed only in respect of the petitioner due to some other reasons, there is a clear case of discrimination and persons promoted in the same counseling following the 1:10 ratio has been given appointment as BT.Assistant (Maths), B.T.Assistant (English) etc. Hence, it is the contention that impugned order passed against the petitioner has to be quashed.



6. The learned counsel for the respondents would submit that though the petitioner was called for counseling due to a mistake done while preparing the list done by the Superintendent, District Adi-dravidar Welfare Office, Villupuram District and as per the G.O.Ms.No.368, Personnel and Administrative Reforms Department dated 18.10.1993, the ratio of vacancies is approximately 1:2, whereas, in this case, 1:10 ratio was followed. Therefore, any relinquishment made by the immediate senior will not enure the benefit to the petitioner.

7. The grievance of the writ petitioner that he was promoted as B.T.Assistant in the counseling held on 05.12.2022 for filling up 1 vacancy in the B.T.Assistant category and subsequently, the said promotion order has been cancelled on 08.12.2022. It is the contention of the writ petitioner that the ratio as contemplated in the Government Order has not been followed in respect of the promotion in the other categories. Therefore, he has been discriminated.



8. It is relevant to note that G.O.Ms.No.368, Personnel and Administrative Reforms Department dated 18.10.1993, wherein, clause vi, would read as follows:

“...(vi) Proportion to be maintained for selection of persons for a single vacancy or more than a single vacancy – According to rule 4 General Rules for preparing panels, to fill up a single vacancy, the claims of first two qualified candidates in the seniority list in a class, category or of the service should be considered and the same proportion should be maintained in making selection for more than a single vacancy. If the first 2 qualified candidates, after consideration of their claims are found not suitable for the post, the claims of the next 2 qualified candidates should be considered.”

9. The above makes it very clear that for a single vacancy or more than a single vacancy. According to rule 4 General Rules for preparing panels, to fill up a single vacancy, the claims of first two qualified candidates in the seniority list in a class, category or of the service should be considered and the same proportion should be maintained in making selection for more than a single vacancy. Therefore, the above Rules makes it clear that for every single vacancy list, there will be 1:2 ratio. Hence, merely because a mistake crept in the counseling and they drawn the seniority list at the ratio of 1:10 and the petitioner's name is found in the Serial No.8, the same will not enure the



benefit to the petitioner merely on the ground that the immediate seniors have given relinquishment.

10. If the proper ratio is maintained as per the Government Order, only the first two names would have been considered and called for interview and in the event all those people unwilling to take up the promotion, the next in the seniority will be eligible for promotion. Such view of the matter, merely because some mistake has crept, the Rules governing the promotion cannot be violated. The respondents are directed to conduct further counseling as per the Government Order since the post remains unfilled.

11. Accordingly, I do not find any merits in the case and this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

27.09.2023

dhk

Internet : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No



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To

1.The Director of Adi-Dravida
and Tribal Welfare
Ezhilagam, Chepauk
Chennai – 600 005

2.The District Adi-Dravida
and Tribal Welfare
Villupuram District



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N.SATHISH KUMAR, J.

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