



W.P.(MD)No.12356 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.05.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.12356 of 2023

and

W.M.P.(MD).No.10496 of 2023

S.Leema Rose

... Petitioner

Vs.

1.The Commissioner of School Education,
O/o. The Commissioner of School Education,
DPI Complex,
Nungambakkam,
Chennai.

2.The Chief Educational Officer,
Dindigul,
Dindigul District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the second respondent to keep one post of B.T.Assistant (Science) available at Government High School, Karisalpatty or Government Higher Secondary School, Dharumathupatti, Dindigul District vacant for the petitioner in



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consonance with the G.O.(Ms.)No.176, School Education Department, dated 17.12.2021 within the period that may be stipulated by this Court.

For Petitioner : Mr.S.Mohamed Suhail
for M/s. Ajmal Associates
For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

This writ petition has been filed for issuance of a writ of Mandamus, directing the second respondent to keep one post of B.T.Assistant (Science) available at Government High School, Karisalpatty or Government Higher Secondary School, Dharumathupatti, Dindigul District as vacant for the petitioner, in consonance with the G.O.(Ms.)No. 176, School Education Department, dated 17.12.2021.

2. The learned counsel appearing for the petitioner would submit that the petitioner is a disabled person assessed with 60% disability. Initially she was appointed as B.T.Assistant (Science) on 26.09.2014 at GHS, Kilputhur, Thiruvanamalai District. Thereafter she participated in the



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general transfer counseling and she opted the Government High School, Karunji, Kodaikanal, Dindigul District and she joined the service on 31.10.2015. While so, the second respondent vide proceedings dated 04.05.2023, has scheduled the surplus counseling to be held on 17.05.2023. Subsequently, the same was cancelled and the date of surplus counseling is rescheduled to be held on 22.05.2023. He would further submit that the Government of Tamil Nadu vide G.O.(Ms).No.176, School Education Department, dated 17.12.2021, issued guidelines for transfer and surplus counseling and as per the said Government Order, the disabled person must be given preference during the transfer and under the heading priority to be followed in Clause 2(d), it has been specifically stated that where more than one application is received seeking transfer to the same vacancy, the decision will be made on the basis of giving priority to physically challenged teachers (including visually impaired) with a disability of 40% or more (bench mark disability) and who possess relevant certificate issued by the competent authority, upholding the claim. Further, the Government of Tamil Nadu vide letter dated 22.07.2009 issued guidelines to be followed during the transfer. In the said letter also, physically handicapped employee,



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who belongs to Group A or Group B must be posted within their native place. While so, the second respondent vide proceedings, dated 04.05.2023, has scheduled the surplus counseling to be held on 17.05.2023 and the revised counseling date was issued by the first respondent vide his proceedings dated 11.05.2023. He would further submit that if the said surplus transfer counseling is conducted, the persons, who are participating in the said counseling might opt the post, which is available near Dindigul District and as a result of which the petitioner may not be able to get transfer within her native District. Hence, the petitioner has filed the present writ petition seeking to keep one post of B.T.Assistant (Science) available at Government High School, Karisalpatty or Government Higher Secondary School, Dharumathupatti, Dindigul District as vacant for the petitioner.

3. Though the learned Special Government Pleader has relied upon Clause 3(ix) of the G.O.(Ms).No.176, School Education Department, dated 17.12.2021, he is very kind enough to appreciate the plight of the writ petitioner, who is a teacher with 60% bench mark disability.



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4. Considering the facts and circumstances of the case, this Court directs the second respondent to keep one post of B.T.Assistant (Science) available at Government High School, Karisalpatty or Government Higher Secondary School, Dharumathupatti, Dindigul District as vacant for the petitioner.

5. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

18.05.2023

NCC: Yes/No
Index : Yes / No
Speaking Order : Yes / No

akv

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2. The Chief Educational Officer,
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L.VICTORIA GOWRI,J.

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