



W.P.(MD)No.16443 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.16443 of 2020

and

W.M.P(MD)No.13756 of 2020

B.Sarojini

... Petitioner

Vs

- 1.The Principal Secretary to Government,
Higher Education Department,
Fort St.George,
Chennai – 600 009.
- 2.The Director,
Office of the Director of Collegiate Education,
College Road,
Chennai – 600 006.
- 3.The Regional Joint Director of Collegiate Education,
Office of the Joint Director of Collegiate Education,
Tirunelveli – 627 008.
- 4.The Chairman / Moderator Commissary,
Tirunelveli Diocesan Trust Association (TDTA) Colleges,
Bishop Stowe,
No.17, North High Ground Road,
Palayamkottai,
Tirunelveli – 627 002.



W.P.(MD)No.16443 of 2020

5.Sarah Tucker College, (Autonomous),
Represented by the Secretary,
Perumalpuram,
Tirunelveli – 627 007.

6.Sarah Tucker College, (Autonomous),
Represented by the Principal,
Perumalpuram,
Tirunelveli – 627 007.

7.St.John's College,
Represented by the Secretary,
Tirunelveli – 627 002.

8.St.John's College,
Represented by the Principal,
Tirunelveli – 627 002.

9.A.Helen Rani Vasanthakumari
10.S.Samuel Ravindraraj
11.P.Maria Suganthi
12.P.Dora David Rathinavathy
13.S.Yesuvadial
14.M.Amuthadevi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the third respondent in (1) K.Dis.No. 14821/B3/2017, dated 31.05.2019, (2) K.Dis.No.14820/B3/2017-1, dated 31.05.2019, (3) K.Dis.No.297/B3/2018 dated 31.05.2019 approving the apppointment of respondents 9 to 11, respectively, as Assistants in the fifth respondent college and (4) K.Dis.No.11575/B2/2017-1 dated 31.05.2019 (5) K.Dis.No.11574/B2/2017-2 dated 31.05.2019 and (6) K.Dis.No. 11574/B2/2017-3 dated 31.05.2019 approving the appointment of respondents



W.P.(MD)No.16443 of 2020

12 to 14, respectively, as Assistant in the seventh respondent college, quash the same and consequentially direct the respondents 5 and 7 to appoint the petitioner through “recruitment by transfer” as Assistant and Superintendent retrospectively, determining the petitioner's commencement of service in the post of Assistant based on the petitioner's seniority fixed for the panel year 2013-14 with all monetary and consequential service benefits.

For Petitioner : Mr.R.Anand

For Respondents : Mr.N.Satheeskumar
Additional Government Pleader
for R.1 to R.3

Mr.R.Nireshkumar for R.4

Mr.P.P.Alwin Balan for R.5

Mr.H.Arumugam for R.6 to R.8

Mr.S.Chellapandian for R.9 to R.11

Mr.N.Dilip Kumar for R.12 to R.14

ORDER

Heard the learned counsel on either side.

2.The only issue that calls for consideration is whether the promotion of the private respondents to the post of Assistants in St.Johns College is violative of Rule 11(4) of the Tamil Nadu Private Colleges (Regulation) Rules,1976.

The said rule reads as follows:



W.P.(MD)No.16443 of 2020

“(4) (i) Promotion shall be made on grounds of merit and ability, seniority being considered only where merit and ability are approximately equal.

(ii) The committee shall, while making promotions, consider the claims of all the qualified teachers in that college. If, however, none of the qualified teachers in the college is found suitable for promotions, the vacancy may be filled up by direct recruitment by calling application from qualified persons through the press.”

3.The writ petitioner is holding the post of Steno Typist Grade-III. The said post is equivalent to the post of Assistant in the sense that both are in the same scale of pay. The case of the petitioner is that she must have been posted as Assistant by way of transfer. Rule 11(4) of the Tamil Nadu Private Colleges (Regulation) Rules,1976, talks only about promotions. It is not relating to filling up a post by way of transfer. The petitioner is unable to show any breach of any statutory provision. In this view of the matter, the impugned promotions cannot be set aside at the instance of the writ petitioner.

4.There is some merit in the contention of the petitioner’s counsel that the petitioner will be stagnating indefinitely in the post of Steno Typist Grade-III whereas the private respondents who have been promoted as Assistants would be promoted to the post of Superintendent. In order to address such



W.P.(MD)No.16443 of 2020

concerns, the Government had issued an Order in the case of Tamil Nadu Ministerial Service providing for filling up 5% of the vacancies in the post of Assistant by way of transfer from the post of Steno Typist. The petitioner is of course entitled to invoke the said Government Order at the proper time.

5. With this liberty to the petitioner to canvas her case at the appropriate time, this writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

10.04.2023

Index : Yes / No
Internet : Yes/ No
NCC : Yes / No
MGA

To

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