



W.P.(MD)No.5744 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.5744 of 2018
and
W.M.P(MD)Nos.5627 & 5628 of 2018

Harinikhasri

... Petitioner

Vs.

1.The Chief Educational Officer,
The Chief Educational Office,
Tuticorin Educational Division,
Tuticorin District.

2.The District Educational Officer,
The District Education Office,
Kovilpatti,
Tuticorin District.



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3.The Secretary,
Ettayapura Raja Higher Secondary School,
Ettayapuram,
Tuticorin District.

4.J.Kavitha,
Post Graduate Assistant Teacher (Tamil)
Ettayapura Raja Higher Secondary School,
Ettayapuram,
Tuticorin District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned order of the appointment of the fourth respondent as a P.G. Assistant Teacher (Tamil) dated 20.08.2014 passed by the third respondent herein and the consequential approval order passed by the second respondent herein in his proceedings Na.Ka.No.4099/A3/2017, dated 05.10.2017 and quash the same as illegal and direct the third respondent herein to conduct a fresh selection process for P.G. Assistant Teacher (Tamil) vacancy in Ettayapura Raja Higher Secondary School,



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Ettayapuram, Tuticorin District.

For Petitioner : Mr.G.Mohankumar
For Respondents : Mr.S.Saji Bino - for R1 & R2
Special Government Pleader
Mr.R.Sundar Srinivasan - for R3
Mr.P.Mahendran - for R4

ORDER

This writ petition has been filed to quash the impugned order of the appointment of the fourth respondent as a P.G. Assistant Teacher (Tamil) dated 20.08.2014 passed by the third respondent herein and the consequential approval order passed by the second respondent herein in his proceedings Na.Ka.No.4099/A3/2017, dated 05.10.2017 and direct the third respondent herein to conduct a fresh selection process for P.G. Assistant Teacher (Tamil) vacancy in Ettayapura Raja Higher Secondary School, Ettayapuram, Tuticorin District.

2. The case of the petitioner is that the petitioner is a Post Graduate in Tamil and she passed B.Ed., degree in Education and completed



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M.Phil., in Tamil in the year 2007. Accordingly, the petitioner is eligible to be appointed as a Post Graduate Tamil Teacher in Government School and based on the above, the petitioner was temporarily appointed as U.G. Teacher in the third respondent School with the aspiration to be appointed in the regular vacancy of P.G. Assistant Teacher (Tamil). Accordingly, in the year 2011, there was a vacancy arose in P.G. Assistant Teacher (Tamil) post in the third respondent School. The third respondent School issued a paper publication, dated 13.07.2014 calling for application to fill up four vacancies which includes P.G. Assistant Teacher (Tamil) in O.C. category. In the above said publication, the interview date was fixed as 17.07.2014 morning at 10.00 a.m. Pursuant to the said publication, the third respondent School called for eligible candidate from Tuticorin District Employment Office. The petitioner applied for the above said post on open category. Based on the paper publication and due to false promise given by the management, the petitioner expects that she would be appointed to the said post and there was a quarrel on the date of interview on 17.07.2014. Therefore, the interview was not conducted on that day and the same was dropped. While-so, the third respondent School, again decided to conduct



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an interview on 28.07.2014. She has received a call letter from the third respondent school. In the said circumstances, the petitioner filed a writ petition before this Court in W.P.(MD) No.12442 of 2014 to quash the interview call letter, dated 22.07.2014 and this Court granted an interim order on 22.08.2014, restraining the third respondent School from filling up the said post, until further orders and subsequently, the writ petition was dismissed on 28.07.2017, on the ground that the petitioner neither challenged the appointment of the fourth respondent nor the subsequent approval order. Against which, the petitioner filed a writ appeal before this Court in W.A.(MD) No.1004 of 2017 and subsequently, the writ appeal was withdrawn. Thereafter, the petitioner filed the present writ petition with the aforesaid prayer.

3. The learned counsel for the petitioner submitted that though the petitioner and the fourth respondent had acquired the same qualification and the petitioner is working in the third respondent school from the year 2011 onwards, however, the fourth respondent was not working in the said School, she was selected with a malafide intention, depriving the rights of



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the petitioner to continue his employment in the said School and the same is contrary and further, originally the interview date scheduled to be fixed on 28.07.2014 and in order to deprive the rights of the petitioner, they created false records, as if the interview was conducted on 20.07.2014 and appointed the fourth respondent in the said post which is illegal and the same is liable to be interfered with and without conducting the School committee, appointing the fourth respondent as P.G. Assistant (Tamil) is not sustainable one. Accordingly, he prayed for allowing the writ petition.

4. Per contra, the learned Special Government Pleader appearing for the respondents 1 and 2 submitted that the petitioner cannot seek for regular appointment, since her appointment is made temporarily and the incidents narrated therein has no relevance to the present case. Earlier, the petitioner filed W.P.(MD)No.12442 of 2014 and the same was dismissed with a direction to approve the appointment of the petitioner, against which, the petitioner preferred a Writ Appeal, which was later withdrawn by her. Having no impediment to approve the appointment of the fourth respondent, the same was approved on 05.10.1997 by the second respondent. This



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Court, while dismissing the Writ Petition in W.P.(MD)No.12442 of 2014, has made some observations as stated therein. The petitioner has filed this Writ Petition challenging the appointment of the fourth respondent, which a third round of litigation, which is based on after thought and a clear abuse of process of law. All the points raised in this Writ Petition has already been raised in W.P.(MD)No.12442 of 2014. This Writ Petition was bad in this aspect and hence, the approval of appointment of the fifth respondent, is in order and it needs no revision. Hence, he prayed for dismissal of the writ petition.

5. Heard, the learned counsel on either side and perused the materials available on record.

6. The facts in the present case are not in dispute. Admittedly, the petitioner participated in the selection process to the post of P.G. Assistant Teacher (Tamil) in the resultant vacancy arose in the third respondent school, for which, in the earlier round of litigation, the petitioner had challenged the call letter issued by the third respondent School and the same



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has ended as against the petitioner and subsequently, the writ appeal filed by the petitioner has also withdrawn and the above said facts are not in dispute.

However, now the petitioner filed a writ petition challenging the appointment order of the fourth respondent. The learned counsel for the petitioner fairly submitted that there is no lack of qualification in respect of fourth respondent and the procedure for appointing the fourth respondent is illegal and on the above grounds, the present writ petition is filed.

7. In the earlier round of litigation, the petitioner raised the very same ground for a call letter which was issued on a particular day and subsequently, cancelled and the issue was elaborately considered by this Court and held as against the petitioner and the same issue cannot be reagitated before this Court in the present writ petition and hence, this Court not interfered with and further, this Court can interfere with the appointment of the fourth respondent only on the ground that if the fourth respondent lack of qualification and ineligible to be appointed to the post of P.G Assistant. Since the entire selection process is conducted by the third respondent, management and in the absence of lack of



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qualifikation, the appointment of the fourth respondent cannot be interfered with. Further, the appointment was made in the year 2014 and subsequently, the same was approved by the Educational Authority and after a lapse of 7 years, interfering with the appointment of the fourth respondent, will adversely affect the interest of the fourth respondent. Hence, the writ petition is liable to be dismissed.

8. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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

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M.DHANDAPANI,J.

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