



W.P.No.13992 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON
01.12.2023

PRONOUNCED ON
31.01. 2024

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.No.13992 of 2010

R.Punitha

... Petitioner

Vs

1.The Government of Tamil Nadu,
Represented by its Secretary,
Educational Department,
Fort St.George,
Chennai – 600 009.

2.The Joint Director of School Education (Personnel),
D.P.I.Campus, College Road,
Chennai – 600 006.

3.The Chief Educational Officer,
Kancheepuram,
Kancheepuram District.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of pertaining to the fresh panel duly drawn for the promotion to the psot of B.T.Tamil by the Joint Director of School Education (Personnel), D.P.I.



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Campus College Road, Chennai – 600 006, the 2nd respondent herein and quash the same and direct the 2nd respondent to draw a panel afresh for the post of B.T.Tamil by taking the petitioner's initial date of appointment as basis for seniority and include the petitioner's name in the said panel and pass such further order.

For Petitioner : Mr.D.Ashok Kumar

For Respondents : Mr.A.M.Ayyadurai
Government Advocate

ORDER

The Writ Petition has been filed challenging the panel prepared by the second respondent for the promotion to the post of B.T. Tamil and to direct the second respondent to draw a fresh panel for the post of B.T. Tamil by taking the petitioner's initial date of appointment as basis for the seniority and to include her name in the said panel.

2. Heard, Mr.D.Ashok Kumar, learned counsel appearing for the petitioner and Mr.A.M.Ayyadurai, learned Government Advocate appearing for the respondents in W.P.No.13922 of 2010.



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3. Mr.Ashok Kumar, learned counsel appearing for the petitioner would submit that the petitioner has completed her course in Secondary Grade Teacher Training and she possesses a Post Graduate degree in Arts and a degree in B.Ed. He would contend that the petitioner has participated in the written examination for the recruitment of Secondary Grade Teachers held on 09.10.1994 and the petitioner was issued with an order dated 13.02.1995 to appear for an interview and thereafter the petitioner was appointed as a Secondary Grade Teacher in Panchayat Union School, Sedappati Panchayat Union and she was initially working as a Teacher at Elementary School and conducted classes for Standards between I and V and the petitioner was ranked 4194 in the examination conducted by the Teachers Recruitment Board.

4. He would further submit that the petitioner was transferred on 30.07.2001 to the Panchayat Union School, Chitlapakkam, and was serving as a Secondary Grade Teacher, and thereafter got transferred to the Government Boys Higher Secondary School, Chrompet, on 02.08.2001 and was handling classes for VI and VIII standards. He would contend that out of the candidates selected by the Teachers Recruitment Board, some of them



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were appointed in Government Higher Secondary Schools and some of them in the Elementary Schools attached to Panchayat Union and the teachers were engaged to take classes for the students between I and V standards if it is Elementary Schools and for VI and VIII Standards if it is a Government Higher Secondary Schools, the selection itself was on random basis.

5. He would further submit that the grievance of the petitioner is that the seniority should be taken into account from the initial date of appointment as the appointments are all meant for Secondary Grade Teachers. He would submit that the appointment of some of the candidates in the elementary school and some of them in the Government Higher Secondary School is without any basis as the candidates who have been appointed at the Government Higher Secondary School, have secured lower marks than the petitioner and therefore the candidates cannot claim themselves that they have got the special status and as such they are entitled to priority in the event of promotion. The very fact that the number of persons who were shown in the new panel for promotion to the post of B.T. Tamil, have secured lesser ranks and in such circumstances, the non-inclusion of the petitioner's name in the new panel list is arbitrary.



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6. He would submit that the second respondent had drawn a seniority panel for the promotion to the post of B.T. Tamil and in the panel list issued by the second respondent in the year 2010, the name of the petitioner was shown at Serial No.315 and thereafter two month later the second respondent issued a fresh panel in which the name of the petitioner was not shown. He would further submit that it was informed to the petitioner that while drawing the panel, the second respondent has considered the services of the petitioner rendered at the Government Boys Higher Secondary School, alone but in case of others their initial date of appointment is being considered.

7. He would further submit that in the event of promotion to the post of B.T. Tamil, the petitioner is entitled to the same as she is taking classes for VI to VIII from the year 2001 and further she had been recruited as a Secondary Grade Teacher owing to the outcome of the results in the examination that had been held by the Government at the instance of the Teachers Recruitment Board in the year 1995 itself. He would contend that the seniority has to be arrived on the basis of the appointment and not on the



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basis of joining Government Higher Secondary School. Hence prays before this Court to allow this Writ Petition.

8. Countering his arguments the learned counsel appearing for the respondents would submit that the petitioner was appointed as a Secondary Grade teacher in the Madurai District, Sedapatti Union, on 03.08.1995 and their service conditions were governed by the Special Rules for the Tamil Nadu Elementary Education Subordinate Service. He would contend that as per the rules the petitioner was permitted unit transfer from Elementary Education Department to School Education Department and the petitioner was transferred to the Government Boys Higher Secondary School, Chrompet, on 02.08.2001 as per the proceedings in Na Ka No.2899/B3/2001 dated 30.07.2001 of the third respondent with a condition that their seniority will be determined only from the date of joining the school in the School Education Department.

9. He would further submit that the petitioner was specifically informed that the seniority in the cadre of Secondary Grade Teacher alone will be taken into consideration for any promotions in the School Education



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Department below the Teachers in the same cadre appointed earlier in the School Education. He would further submit that the petitioner herself has given an undertaking to the effect that she will take the seniority in the unit transfer below the persons working in the School Education Department in the respective category, despite such an undertaking she has filed this Writ Petition. He would submit that there is no dispute that the petitioner was selected and appointed to the Elementary Education Department based on the marks obtained by the petitioner in the examination conducted by the Teachers Recruitment Board and the allotment of selected candidates by the Recruitment Board to the Elementary Education Department and School Education Department is based on reasonable classification.

10. He would further submit that if the inter-se seniority of the candidates would be as per the seniority assigned by the Teachers Recruitment Board in the respective unit and if the petitioner are placed in seniority as per their date of regularization in their parent unit, then they would take ride over the meritorious candidates allotted to the School Education Department and such course of action would be against the service conditions. He would submit that the unit transfer is given to the



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teachers on their own volition to cater to their personal need in deciding their place of work. Thereafter they are precluded from claiming seniority over the regular employee of the school education department by virtue of the doctrine of estoppel.

11. He would submit that the unit transfers from Panchayat Union, Corporation and Municipal schools to Government Schools were already in existence since 1997, in accordance with [G.O.Ms.No.209](#), School Education Department dated 08.05.1997, which allowed unit transfer with certain conditions. The first and foremost condition in the above said Government order is that the seniority of the teachers getting transferred to the School Education Department are fixed next to the teachers working in the School Education Department and the above said condition has been incorporated in the unit transfer viz.,proceeding Na Ka No. 2899/B3/2001 dated 30-07-2001 issued by the third respondent.

12. He would further submit that the Director of School Education has filed an Civil Appeal No.4582 of 1997 against the orders of the Tamil Nadu Administrative Tribunal, the Hon'ble Supreme Court in its order dated



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29.10.1988 has considered the issue, which is similar to the present one, and allowed the Civil Appeal. He would submit that the Writ Petition in W.P.No.12899 of 2009 filed by one G.Rajeswari before this Hon'ble Court seeking the same remedy was dismissed *vide* order dated 05.03.2013. He would contend that if the prayer of the petitioner is considered, it would go against the rules and the procedure and the possibility of similar requests from the persons already absorbed in the School Education Department cannot be ruled out and the same would create administrative issues and unsettle the settled matter. Therefore the respondents would seek to dismiss the Writ Petition.

13. I have heard the submission made on behalf of the respective sides and had perused the materials available on record.

14. The challenge in this Writ Petition is the panel of teachers eligible for B.T. Tamil promotion. The main contention of the petitioner is that she had been assigned the rank of 4194 in the examination conducted by the Tamil Nadu Teachers Recruitment Board and was posted as a Secondary



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Grade Teacher in the Panchayat Union School Sedapatti Panchayat Union

the petitioner was transferred from the said school on 30.07.2001 to the Government Boys Higher Secondary School, Chrompet, Chennai. According to the petitioner, in the panel that had been impugned, she had been placed below many of her juniors who had scored lesser marks in the examination that was conducted in the year 1995.

15. The learned counsel for the petitioner would submit that the transfer from Union to the Government High School at Chrompet, she ought not have been re-visited that her seniority and she should have been placed as per the TRB ranking even in the Government Higher Secondary School.

16. But, however, on the contrary, the learned Government Advocate had submitted that the transfer of the petitioner in the year 2001 was based upon her own request and that she had been informed that she would be placed as the junior most in respect of the persons serving in the School Education Department. The said order of transfer had been produced by the petitioner even in the typed set of papers.



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17. A perusal of the same would show that the petitioner had been transferred based upon her request apart also intimating her that she will be considered as a junior most in the transferred place. This cannot be disputed by the petitioner and in fact, she had made an averment in the affidavit contrary to the same. When having accepted the transfer by giving up her seniority as per the TRB ranking, the petitioner cannot claim the seniority as per TRB ranking in the transferred place. If, she was aggrieved, she ought to have challenged the condition imposed in the order of transfer and having failed to do so at the earliest point of time, she is now estopped from making a claim that she should be placed as per the TRB ranking.

18. In such event, I do not find any merits in the Writ Petition and in fine, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

31.01.2024

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Index : Yes/No

Speaking order : Yes/No

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Neutral Citations : Yes/No

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Represented by its Secretary,
Educational Department,
Fort St.George,
Chennai – 600 009.
- 2.The Joint Director of School Education (Personnel),
D.P.I.Campus, College Road,
Chennai – 600 006.
- 3.The Chief Educational Officer,
Kancheepuram,
Kancheepuram District.

K.KUMARESH BABU,J.

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A Pre-delivery order made in
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