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Writ Petition No.18573 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-01-2025

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THE HONOURABLE MR JUSTICE BATTU DEVANAND

WP No. 18573 of 2018

& WMP No.21920 of 2018

Vijayalakshmi,
W/o.Suresh, 236, Vettavallam Road,
Thiruvannamalai District.

Petitioner(s)

Vs

1. The State of Tamil Nadu
Rep. by Principal Secretary to Govt., Education
Department, Fort St. George, Chennai-9.

2. Teachers Recruitment Board,
Rep. by its Member Secretary, DPI Campus, College Road, Chennai-6.

3. The Project Director,
Integrated Education for the Disabled Children (IEDC), DPI Campus,
College Road, Chennai-6.

Respondent(s)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents to absorb the petitioner as a permanent Special Education Teacher for the Special Children.

For Petitioners : Ms.Selvi George

For Respondents : Ms.R.L.Karthika, GA for R1 & 3
Mr.C.Kathiravan, Spl. GP for R2



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ORDER

This Writ Petition has been filed seeking for issuance of a Mandamus, to direct the respondents to absorb the petitioner as a permanent Special Education Teacher for the Special Children.

2.The learned counsel for the petitioner would submit that the petitioner is a Post Graduate in M.A.Degree and also completed the B.Ed., Degree in the year 2009 and secured First Class with Distinction. She also completed her Diploma in Special Education(Hearing impairment). She also registered with the Rehabilitation Council of India and apart from this, she also undergone one year Teacher Training Course in Special Education and has passed examination of Diploma in Special Education of hearing impairment. She also undergone foundation course in Special Education through distance education (FC-SEDE) and was placed in first division. She belongs to Hindu Adi Dravida community. Her husband belongs to Hindu Vanniyar community. Thus, her marriage is an inter-caste marriage. The Thasildar, Villupuram has also issued an inter-caste marriage certificate dated 06.05.2009. As per the policy of the Government, those persons who got intercaste marriage, will get priority in employment.



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3.The learned counsel would further submit that the petitioner worked as a teacher for Special Children right from the year 2000 and she continued to work as on date. In the year 2003, the Integrated Education Promotion Council (IEPC) has nominated the petitioner as a Resource Teacher to take care of the special children studying in St. Mary's Higher Secondary School, Vettavallam, Thiruvannamalai District on a consolidated pay. The petitioner has also successfully passed the Tamilnadu Teacher Eligibility Test during August 2013. In the year 2015, the Government issued G.O.No.28, School Education Department dated 30.01.2015 by which, 202 Special Teacher posts are created and those posts will be filled up by the Tamilnadu Teachers Recruitment Board. Since, these 202 teacher posts are for the Special Children, the petitioner contends that preference should be given to the teachers, who are working under the IEPC Scheme.

4.The counsel for the petitioner contends that as the petitioner is working as teacher for the Special Children from the year 2000, the third respondent has to absorb her as a permanent teacher. Requesting the same, the petitioner submitted a representation to the third respondent on 09.06..2017. Aggrieved by the inaction of the third respondent in



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considering the said representation of the petitioner, the present Writ Petition has been filed.

5. On behalf of the third respondent, a counter affidavit has been filed. Based on the averments made in the counter affidavit, the learned counsel appearing for the respondents would submit that the Teacher Recruitment Board had issued an Advertisement No.02/2017 dated 27.04.2017, for the recruitment of 202 B.T.Assistants (IEDSS)(RMSA). As per the education qualification prescribed in the said Advertisement, the petitioner is not eligible due to the reason that the petitioner did not possess B.Ed (Special Education) Degree with specialization in Visual Impairment/hearing Impairment/Mental Retardation. Accordingly, the learned Government Pleader would submit that the request of the petitioner is not feasible for consideration.

6. Having heard the submissions of the respective counsels and on a careful perusal of the material available on record, it appears that the petitioner is working on contract basis from the year 2000 till date as Special teacher for Special children as a Resource Teacher and taking care



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of the special children studying in St. Mary's Higher Secondary School, Vettavallam, Thiruvannamalai District and she has already passed examination of Diploma in Special Education for hearing impairment. It is the case of the respondents that now to teach the Special Children, 202 posts are created by the Government and filling up of those vacancies, a notification was issued by the Teachers Recruitment Board prescribed certain educational qualifications. The case of the petitioner is that considering her qualifications and her continuous service for the last 25 years in teaching the special children, her request has to be considered for absorption as permanent teacher.

7. It is true that the Teacher Recruitment Board issued notification to fill up 202 teacher posts for the Special Children, prescribing certain educational qualifications. Whether the petitioner has possessed the qualification prescribed by the Teacher Recruitment Board or not, but it is an admitted fact that for the last 25 years, the petitioner has been teaching the special children after her appointment on contractual basis. After utilising the services of the petitioner to teach the Special Children for 25 years, now not considering the request of the petitioner to absorb her as permanent



teacher, on the ground that as reported by the respondents that she did not possess requisite qualification, appears to be unjustified and inhuman. As and when the respondents utilised the services of the petitioner for 25 years to teach the Special Children, they ought to have considered the request of the petitioner made in her representation dated 09.06.2017 on humanitarian grounds, if necessary by relaxing necessary Rules. Otherwise it has to be treated as exploiting the petitioner for 25 years on payment of a meager salary by appointing her on contractual basis. Besides this, the petitioner's request can be considered on priority basis also in the light of her Inter caste marriage.

8. For the above said reasons, in our considered opinion, it is appropriate and reasonable to direct the third respondent to consider the representation of the petitioner dated 09.06.2017, keeping in mind the above views expressed by this Court herein and pass appropriate orders.

9. Accordingly, this Writ Petition is disposed of with a direction to the third respondent to consider the representation of the petitioner dated



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09.06.2017 with human outlook and pass positive orders within a period of six weeks from the date of receipt of copy of this order and communicate the same to the petitioner.

No costs.

Consequently connected miscellaneous petition is closed.

30.01.2025

Index : Yes/No
Speaking order: Yes/No
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To

1. The State of Tamil Nadu

Rep. by Principal Secretary to Govt., Education
Department, Fort St. George, Chennai-9.

2. Teachers Recruitment Board,

Rep. by its Member Secretary, DPI Campus, College Road, Chennai-6.

3. The Project Director,

Integrated Education for the Disabled Children (IEDC), DPI Campus,
College Road, Chennai-6.

BATTU DEVANAND, J



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