

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2009

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THE HONOURABLE Mr. JUSTICE D.HARIPARANTHAMAN

W.P.No.7450 OF 2007  
(O.A.No.4878 of 2002)

M. Santhi ... Petitioner

Vs.

1. Secretary to Government,  
School Education (HSE 1) Department,  
Fort St. George,  
Chennai - 9.

2. Director of School Education,  
College Road,  
Chennai -6. ... Respondents

Original Application No. 4878 of 2002 which was filed before the Tamil Nadu Administrative Tribunal stands transferred to the file of this Court on abolition of the Tribunal and renumbered as Writ Petition No. 7450 of 2007, seeking for a writ of certiorarified mandamus, to call for the records relating to the order of the First Respondent herein passed in his letter No.33631/HSE1/2001-1 dated 09.01.2001 rejecting the applicant's request for appointment as Post Graduate Teacher by recruitment by transfer from Tamil Nadu Ministerial Service to Tamil Nadu Education Subordinate Service, and quash the same and consequentially direct the respondents herein to appoint the applicant as Post Graduate Teacher with effect from the date of her first representation for consideration for the post of the Post Graduate Teacher, with all consequential monetary and service benefits.

For Petitioner : Mr. Ravi Shanmugam  
for M/s.Sudha Ravi Associates  
For Respondents : Mrs. C.K.Vishnu Priya,  
Addl. Govt. Pleader.

O R D E R

1. The petitioner passed B.Sc. Zoology in April 1982, M.Sc. Zoology in April 1984, B.Ed. in August 1987 and M.Ed. in April 1990.

2. In the meantime, the petitioner was regularly selected in August 1986 as Junior Assistant in Medical Department through Public Service Commission. She belongs to Tamilnadu Ministerial service. She came on transfer at request to Education Department in the same service on 23.12.1989.

3. She has been representing for appointment as P.G. Teacher by way of transfer of service from 1990 onwards. The P.G. Teacher in Higher Secondary Schools belong to Tamil Nadu Higher Secondary Educational Service. Ultimately the first respondent passed the impugned order dated 09.11.2001 rejecting the request of the petitioner on the ground that the Junior Assistants are not the feeder category of the PG Assistants. The petitioner filed O.A. No.4878 of 2002 (W.P.No.7450 of 2007) praying to quash the aforesaid order and for a consequential order by way of direction to the respondents herein to appoint her as Post Graduate Teacher, with effect from the date of her first representation, by way of transfer of service.

4. Heard Mr. S. Ravi Shanmugam, learned counsel for the petitioner and Tmt. C.K. Vishnupriya, Additional Govt. Pleader for the Respondents.

5. The learned counsel for the petitioner fairly states that after the Special Rules for Tamil Nadu Higher Secondary Educational Service was amended by G.O.Ms.No. 452 dated 24.03.88, the provisions for appointment by transfer from the Tamil Nadu Ministerial services is not available to the petitioner. The learned counsel states that prior to G.O.Ms.No.452, the Special Rules for Tamil Nadu Higher Secondary Educational Service provides for appointment to the Post for P.G. Teacher by transfer from other services including Tamil Nadu Ministerial Service. According to him, G.O.Ms.No.720 Education Department 28.04.1981 was the concerned Government Order governing the issue, prior to amendment made in G.O.452. As fairly submitted by him, that the said rule was amended and new rules came into force by way of G.O.Ms.No.452.

6. Though, the impugned order nowhere refers to G.O.Ms.No.452, in the reply affidavit filed in O.A.No.4878/2002 by the respondent, it is stated that the impugned order was passed, based on G.O.Ms.No.452.

7. In these circumstances, I do not find any reason to interfere with the impugned order. Accordingly, the writ petition is dismissed.

8. However, the learned counsel for the petitioner has brought to my notice various orders passed by the first respondent

and second respondent appointing persons belonging to other services by way of transfer from services to Tamilnadu Higher Secondary Educational Service, even after the issuance of G.O.452. The learned counsel submits that those orders did not take note of G.O.Ms.No.452 and proceeded as if G.O.Ms.No.720 was in operation, and hence, he could not seek a similar direction to treat him in the same manner and to pass similar order. In these circumstances, the learned counsel for the petitioner pleads that the petitioner could be given liberty to make representation to the first respondent requesting for similar treatment, by granting necessary relaxation by exercising its power under Rule 48 of the Tamil Nadu State and Subordinate Service Rules.

9. Taking note of the aforesaid submission of the petitioner, the writ petition is disposed of, with the following observations. While dismissing the writ petition, I make it clear that the dismissal of writ petition will not come in the way of writ petitioner from making any representation to the Government seeking similar treatment like other persons and in such an event, the first respondent is directed to pass orders on such representation on merits in accordance with law.

Sd/  
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government,  
School Education (HSE 1) Department,  
Fort St. George, Chennai - 9.
2. The Director of School Education,  
College Road, Chennai - 6.

1 cc To The Government Pleader, SR.43778

1 cc To M/s.Sudha Ravi Associates, Advocate, SR.43514

W.P.No.7450 OF 2007

BK(CO)  
SRA(24/9/2009)