

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.Nos.22101 and 22102 of 2013
and
M.P.Nos.2, 2, 3 and 3 of 2013

D.John Jerald

.. Petitioner
in WP:22101/2013

R.Rajeshwari

.. Petitioner
in WP:22102/2013

Vs.

1. The Teacher Recruitment Board,
Rep. by its Chairman,
4th Floor, E.V.K.Sampath Building,
DPI Campus, College Road,
Chennai - 6.
2. The Director of School Education,
DPI Campus, College road,
Chennai - 6.
3. The Joint Director of School Education,
(Higher Secondary), DPI Campus,
College Road, Chennai - 6.

.. Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 3rd Respondent in Na.Ka.No. 97658/W3/E2/2012, dated 31.12.2012 and to quash the same and consequently direct the Respondents to restore the order of appointments issued by the 3rd Respondent in Na.Ka.No. 097646/W3/E2/2012 dated 12.12.2012 and to issue an order of allotment of school in favour of the petitioners within a stipulated time with all consequential and attendant benefits including seniority based on selection and other benefits.

For Petitioners : Mr.G.Sankaran

For Respondents : Mrs.M.E.Raniselvam
Addl. Government Pleader

ORDER

The petitioners have filed this writ petition seeking issuance of a Writ of Certiorari Mandamus to call for the records relating to the proceedings of the 3rd respondent in Na.Ka.No. 97658/W3/E2/2012, dated 31.12.2012, to quash the same and consequently direct the Respondents to restore the order of appointments issued by the 3rd respondent in Na.Ka.No. 097646/W3/E2/2012, dated 12.12.2012 and to issue an order of allotment of school in favour of the petitioners within a stipulated time with all consequential and attendant benefits, including seniority based on selection and other benefits.

2. The facts in a nutshell are as under: It is the case of the petitioners that pursuant to the notification issued by the first respondent dated 28.02.2012 inviting applications for direct recruitment to the vacancies to the post of P.G. Assistant in various subjects for the year 2011-2012, the petitioners made application for the post of P.G. Assistant Economics.

3. The petitioners were issued hall tickets and examination was held on 27.05.2012. The petitioners have participated in the certificate verification conducted on 31.12.2012 and produced all the original certificates. It is stated that each of the petitioners were awarded 103 marks in total, including the marks secured in the examination and weightage marks.

4. It is stated that the first respondent had issued final selection list on 11.12.2012 stating that the petitioners had been selected for the post of PG Assistant Economics. On the next day, i.e., on 12.12.2012, the petitioners were issued with orders of appointment, appointing them to the post of P.G. Assistant Economics and the order was received by them on 13.12.2012. In the order of appointment, it was stated that the allotment of schools would be based on counselling to be conducted in this regard.

5. It is stated that subsequently counselling was conducted on 31.12.2012 for allocation of schools to the candidates given the order of appointment to the post of P.G. Assistant in various subjects. The petitioners partook in the same and exercised their option. However, they were not allotted any school and were directed to approach the first respondent for clarification.

6. It is averred that the petitioners approached the first respondent as directed, but later, all of a sudden, the petitioners received orders even dated 31.12.2012 from the third respondent, wherein it was stated that the orders of appointment

issued to the petitioners on 12.12.2012 had been cancelled on the premise that there is a letter received from the Teachers Recruitment Board containing final select list to the post of P.G. Assistant, in which the names of the petitioners do not find place.

7. It is stated that the petitioners approached the first respondent and made representations on several occasions to know the reason for cancellation of their appointment. However, it is alleged that the said representations did not evoke any response. Hence, the present writ petitions for the relief stated supra.

8. The learned counsel appearing for the petitioners submitted that proceedings of the third respondent dated 31.12.2012 are arbitrary and illegal, inasmuch as the same have been passed in gross violation of the principles of natural justice.

9. He further contended that inasmuch as the petitioners have been selected pursuant to the written examination on merits and they were also issued appointment orders, the order of the third respondent cancelling their appointment without assigning any reason whatsoever, that too by a cryptic order, is liable to be set aside.

10. Per contra, the learned Additional Government Pleader appearing on behalf of the respondents submitted that inasmuch as the the petitioners in the case on hand were juniors considering their dates of birth with other selected candidates in the same category, their provisional selection was cancelled and, therefore, the orders passed by the third respondent do not warrant interference.

11. I heard Mr.G.Sankaran, learned counsel appearing for the petitioners and Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the respondent in both the Writ Petitions and perused the documents available on record.

12. It is not in dispute that the names of the petitioners were selected and orders of appointment were issued by the 3rd respondent in Na.Ka.No.097646/W3/E2/2012, dated 12.12.2012. A bare perusal of the impugned orders even dated 31.12.2012 does not show that the petitioners were issued an opportunity of hearing before cancelling their appointment. The orders of cancellation also do not contain any reason for such cancellation of appointment orders issued to the petitioners. The above said facts have also not been disputed by the respondents in the counter affidavit filed in this writ petition.

13. The Hon'ble Supreme Court in the case of Shrawan Kumar Jha v. State of Bihar, reported in 1991 Supp (1) SCC 330 held that no order to the detriment of the appointees could be passed

without complying with the rules of natural justice.

14. Therefore, this Court is of the considered opinion that the cancellation of the appointment of the petitioners is certainly against the principles of equity and natural justice and cannot be sustained.

15. On this score alone, without expressing any opinion on the merits of the matter, the writ petitions are allowed and the order dated 31.12.2012 is set aside and the matter is remitted to the third respondent to pass appropriate orders, as they may choose in their discretion in respect of the selection and appointment of the petitioners, but such decision shall be taken only after affording reasonable opportunity to the petitioners. The decision in this regard must be taken by the third respondent within two months from the date of receipt of a copy of this order, whereafter the same must be effectively communicated to the petitioners.

16. These writ petitions are allowed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Chairman,
Teacher Recruitment Board,
4th Floor, E.V.K.Sampath Building,
DPI Campus, College Road, Chennai - 6.

2. The Director of School Education,
DPI Campus, College road, Chennai - 6.

3. The Joint Director of School Education,
(Higher Secondary), DPI Campus,
College Road, Chennai - 6.

+2cc to Mr.G.Sankaran, Advocate, S.R.No.63166

W.P.Nos.22101 and 22102 of 2013
and

M.P.Nos.2, 2, 3 and 3 of 2013

cs/06/09/18