
(2013) 03 MAD CK 0221

In the Madras High Court

Case No : Writ Petition No. 4877 of 2013

A. Senthilraj and Others

APPELLANT

Vs

The Director State Council Education Research and Training
DPI Campus and The Chairman Teachers Recruitment Board
4th Floor

RESPONDENT

Date of Decision : 12-03-2013

Acts Referred:

Citation : (2013) 5 MLJ 40

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : G. Sankaran, for the Appellant; V. Subbiah, Spl.G.P., for the Respondent

Judgement

Vinod K. Sharma J.

1. The petitioners have approached this Court with a prayer for issuance of a writ in the nature of mandamus, directing the respondent to issue the order of appointment for the post of Senior Lecturer in their favour based, on the selection, in pursuance to the notification of the second respondent, i.e., Teachers Recruitment Board dated 31-12-2011 and declaration of result of the written examination conducted on 04-03-2012. The petitioner participated in the selection for the post for Senior Lecturer in pursuance to the advertisement dated 31-12-2011. All the petitioners were in the select list in the written examination conducted on 04-03-2012 and their names were also included in the provisional list of candidates qualified for Certificate Verification following 1:1 ratio.

2. It is the case of the petitioners that so far the respondents have not issued appointment letter to the petitioners. It is also submitted that the petitioners are fully qualified for the appointment as Senior Lecturer as per the eligibility criteria laid down under NCTE Regulations.

3. It is the case of the petitioners that the second respondent/Teachers Recruitment Board notified advertisement on 31-12-2011 for direct recruitment of 34 Senior Lecturers in the District Institute of Education and Training.

4. As already noticed above, the case of the petitioners is that, after having found that the petitioners eligible, they were permitted to take up the written examination, which they successfully passed and were therefore, provisionally selected as per provisional list, but were not issued any appointment letter.

5. The petitioners, therefore, have invoked the principle of legitimate expectation, against the action of respondents in not issuing appointment letter. It is also submitted that there is no legally sustainable reason to deny appointment to the petitioners after their selection.

6. It is submitted that, on enquiry, the petitioners were informed that they will be issued appointment letter very shortly.

7. The case of the petitioners, therefore, is that inordinate delay in issuing the order of appointment is highly prejudicial to them. The petitioners have approached this Court for issuance of writ in the nature of mandamus for directing the respondent to issue an order of appointment.

8. The Honourable Supreme Court in *Dir. S.C.T.I. for Med. Sci. and Tech. and Another Vs. M. Pushkaran*, was pleased to lay down that a person in the select list does not have any legal right to seek appointment.

9. The Constitutional Bench of Honourable Supreme Court in *Shankarsan Dash Vs. Union of India*, held that:

7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of action in an arbitrary manner. The decision not to fill up the vacancies has to be taken bonafide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in *The State of Haryana Vs. Subash Chander Marwaha and Others*, , *Miss Neelima Shangla, Ph. D. Candidate Vs. State of Haryana and Others*, .

10. The Law is settled that a selectee has no legal right, and a superior Court in exercise of its power of judicial review will not ordinarily direct issuance of any writ in absence of any pleading and proof of malafides or arbitrariness on the part of employer. Each case therefore, has to be considered on its merits. The

pleading in this case do not show any malafide on the part of respondents nor the action can be said to be arbitrary, which may call for judicial review. Therefore, this is not a fit case for interference by this Court in exercise of writ jurisdiction. No merits. Dismissed. No costs.