
(2011) 02 MAD CK 0350

In the Madras High Court

Case No : Writ Petition No. 11877 of 2009 and M.P. No. 1 of 2009

N. Ganesan

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 28-02-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 309

Citation : (2011) 02 MAD CK 0350

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : Rajendran, for the Appellant; E. Ranganayaki, Government Advocate, for the Respondent

Judgement

Vinod K. Sharma, J.—The Petitioner has approached this Court, with the prayer for issuance of a writ, in the nature of Mandamus, directing the Respondents to consider the case of the qualified Vocational Instructors, in commerce and business for promotion as Head Master/Head Mistress in the education department schools on par with B.T. Assistant and Tamil Pandits, as per seniority.

2. The Petitioner was appointed as Vocational Instructor in commerce and business, in the year 1984. After putting in about 10 years of service, the service of the Petitioner was regularized.

3. The Government of Tamil Nadu in exercise of powers under Article 309 of the Constitution of India, issued G.O. Ms. No. 6, School Education (VE) Department dated 04.01.2000 to regulate the service of Vocational Instructors in commerce and business.

4. It is stipulated that the general and special rules, applicable to holders of permanent posts in the Tamil Nadu School Educational Subordinate Service, shall also apply to holders of the temporary posts of Vocational Instructors, sanctioned from time to time in Higher Secondary Schools for Home Science, Commerce and Business, Agriculture, Engineering and Technology, Photography and music

subjects.

5. The rule, framed vide G.O. Ms. No. 6, provides that these posts shall constitute a separate category in service, and also laid down qualification for appointment, to the post of Vocational Instruct Ors.

6. The case of the Petitioner is that he has a right to be considered for promotion to the post of Head Master/Head Mistress, being equated with permanent posts as per G.O. Ms. No. 6. The Petitioner made a representation for consideration of his case for empanelment, for further promotion to the post of Head Master/Head Mistress.

7. The petition is opposed by the learned Counsel for the Respondents, on the plea that according to rules applicable, it is only B.T. Assistant cadre, which is treated, as feeder category, while preparing panel for the promotion of Headmasters/Headmistress in Government High Schools. The case of the Petitioner, therefore, cannot be considered.

8. It is also the stand of the Respondents that the qualification prescribed for the post of B.T. Assistant, and that of Vocational Instructions, are totally different. The Petitioner, therefore, cannot claim equality.

9. The stand taken by the Respondents to oppose the petition cannot be accepted, for the reason that the Government, vide G.O. Ms. No. 185 dated 25.05.2008, on recommendation of the Director of School Education, decided to treat the Vocational Instructors, who fulfilled the necessary qualification on par with B.T. Assistants, for being empanelled, for further promotion to the post of Headmasters/Headmistress. In view of G.O. Ms. No. 185, it is not open to deny the right of consideration for further promotion to Vocational Instructors, possessing requisite qualification, in pursuance to their equality with B.T. Assistants. The denial of right of consideration for promotion to the post of Head Masters/Head Mistress is thus hit by Articles 14 and 16 of the Constitution.

10. The writ petition is disposed off, with a direction to the Respondents, to consider the case of the eligible Vocational Instructors in commerce and business for empanelment for the post of Headmasters/Headmistress, in accordance with rules, subject to their fulfilling qualification. No costs. Consequently, connected miscellaneous petitions is closed.