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R. Indra Vs. the District Elementary

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Court : Chennai

Decided On : Feb-20-2012

Judge : Vinod K.Sharma, J.

Acts : Constitution of India - Articles 226

Appeal No. : Writ Petition No: 30467 of 2011

Appellant : R. Indra

Respondent : The District Elementary

Advocate for Def. : Mr. P. Karthikeyan , Adv.

Advocate for Pet/Ap. : Mr. A.C. Manibharathi, Adv.

Judgement :

Writ petition under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st respondent to post the petitioner on promotion as Middle School Head Master in the Avadi Municipality Midle School (Telugu) at Muthaputupettai in accordance with the eligibility of the panel for B.T. Head Master in the year 2010-2011 for Avadi Block drawn on 01.01.2011.

ORDER

1. Petitioner has approached this Court with a prayer for issuance of a writ in the nature of mandamus, directing the 1st respondent to post the petitioner on promotion as Middle School Head Master, in the Avadi Municipality Midle School (Telugu) at Muthaputupettai in accordance with the eligibility of the panel for B.T. Head Master for the year 2010-2011 for Avadi Block drawn on 01.01.2011.

2. The petitioner was appointed as Secondary Grade Teacher on 17th June, 1991 at Panayurkuppam Primary School, Chithamur Block, Kancheepuram District and her services were regularised on 01.09.1991. She completed her probation on 01.09.1993.

3. Thereafter, petitioner completed B.A. (English) and B.Ed. (English), and was promoted as B.T. Assistant (English) on 5th November, 2007.

4. When the next panel, for the year 2010-2011, for promotion to the post of Middle School Headmaster was drawn on 01.01.2011, petitioner was within the zone of consideration and her name was included.

5. She was assigned 8th rank in the seniority list.

6. The first five persons in the panel were promoted. The case of the petitioner is that subsequent to the promotion of those five candidates, against the remaining vacancy in the Telugu School, petitioner alone is eligible to be appointed in the Avadi Municipal Middle School (Telugu), as her mother tongue is Telugu. The case of the petitioner is, that inspite of the petitioner having been called for the counseling, it was postponed indefinitely.

7. It is well settled law that a person cannot seek promotion merely because that post is available. It is for the employer to fill up the vacancy. The allegation of malafide cannot be taken note of, for the reason that no person has been impleaded in person as party against whom allegations have been levelled.

8. Even if counseling would have been held on 21.12.2011 or 22.12.2011 as scheduled, the petitioner being at the 8th place, there are two more persons above the petitioner, who are awaiting promotion, whereas, vacancy available are also only two, therefore, petitioner can not claim that post as of right.

9. The writ petition, being totally misconceived, deserves to be dismissed. Connected miscellaneous petition is also dismissed. No costs.

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