

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH**

OA 310/01485/2015

Dated Tuesday the 11th day of December Two Thousand Eighteen

P R E S E N T

Hon'ble Mr. R.Ramanujam, Member(A)

G. Parameswary
No. 11, Akkarai Kulathu Street
Keezha Ooduthurai
Neravy Post
Karaikal – 609 604
Puducherry.

.. Applicant

By Advocate M/s. Giridhar & Sai

Vs.

1. Union of India
Rep. by its Secretary to Government (Education)
Chief Secretariat
Puducherry.

2. The Director
Directorate of School Education
Puducherry.

.. Respondents

By Advocate Mr. R. Syed Mustafa

ORAL ORDER

Pronounced by Hon'ble Mr. R. Ramanujam, Member(A)

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

- “i. To declare that the Notification No. 12658/DSE/Estt.IV/C/2015 dated 26.05.2015 issued by the second respondent is illegal and invalid in so far as appointment to the post of Primary School Teacher has been restricted to candidates who are natives/residents of Union Territory of Puducherry particularly clause 4 under eligibility conditions and direction to produce Nativity/Certificate at page No. 3 of the Notification
- ii. To direct the respondents to appoint the applicant to the post of Primary School Teacher with effect from October 2015 with all consequential benefits, including arrears of pay and allowances and including seniority in the said post
- iii. To award costs and pass such further and other orders as may be deemed and proper and thus render justice.”

2. It is submitted that subsequent to the filing of the OA, the respondents granted appointment to the applicant on the post of Primary School Teacher on regular basis by an OM dated 08/11.07.2016 and as such the main relief sought in the OA had been granted. However, the applicant is entitled to appointment with effect from the date on which the person immediately below her in the merit list had been appointed to the post as the delay in her appointment was not attributable to her. The respondents had delayed the matter by initially denying grant of

appointment to the applicant on the ground of residency and later appointing her in the light of judicial precedents with effect from a prospective date. As the applicant should not have been denied the appointment in the first place, she is entitled to retrospective appointment and consequential benefits, it is contended.

3. I have considered the matter. The applicant has sought the appointment from October 2015 with all consequential benefits in this OA. The main relief not to hold the matter of residency against the applicant has already been agreed to and the appointment itself has been granted. There is nothing to suggest that the delay in the applicant's appointment was attributable to any lapse on her part. I am, therefore, of the view that in the interest of justice, the applicant must be granted seniority on a notional basis with effect from the date on which the person immediately below her in the merit list had joined the post. The applicant, however, shall not be entitled to any arrears of pay on the principle of 'no work no pay'. The respondents shall pass appropriate orders accordingly within two months from the date of receipt of a copy of this order.

4. OA is disposed of in the above terms. No costs.

(R. Ramanujam)
Member(A)
11.12.2018

AS