

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 20<sup>TH</sup> DAY OF JUNE, 2012

PRESENT

THE HON'BLE MR. JUSTICE N.KUMAR

AND

THE HON'BLE MR.JUSTICE H.S.KEMPANNA

WRIT PETITION NO.4988/2012 (S-KAT)

BETWEEN:

M. Mahadevaiah  
S/o. Dodda Muniappa  
Aged about 40 years  
And residing at Matnahalli  
Village & Post  
Kolar Taluk and District – 563 101.

... Petitioner

(By Sri. M.Subramanya Bhat, Adv., for  
M/s. Subbarao & Co.)

AND:

1. Deputy Director  
Public Instructions Department  
Mandya District, Mandya.
2. The State of Karnataka  
Represented by  
The Principal Secretary,  
Department of Education  
Vidhana veedhi

Bangalore – 01.

...Respondents

(By Sri.E.S.Indresh, HCGP)

This Writ Petition is filed under Article 226 of Constitution of India praying to quash the order dated 10.1.12 in application No.3541/2006 on the file of Karnataka Administrative Tribunal, vide Annexure-G and etc.,

This petition coming on for further orders this day, N. Kumar J., made the following:-

### ORDER

The petitioner has preferred this writ petition challenging the order passed by the Tribunal rejecting his request for a direction to the authorities to consider his application for the post of Primary School Teacher.

2. In response to the advertisement issued by the Deputy Director Public Instructions Department, Mandya District calling for applications for the post of Kannada Primary School Teacher in Mandya District, the petitioner submitted his application on 31.03.1999 with requisite documents. He was claiming reservation under III A Physically Handicapped Category. He was not selected. The selection list was published on

14.6.1999 in which, his name did not found in any place. Therefore, the persons, who were selected in terms of the said selection list, were given appointment orders. Nearly after five years, the petitioner made a representation pointing out the persons who have secured less marks than him are given employment and therefore, his name has to be included in the selection list and he should be appointed as a teacher taking into consideration the merits, service and monitory benefits to be granted. The said request was rejected by the authorities as per Annexure – A.4 on the ground that the petitioner did not file his objection to the draft list of the selected candidates published not once, more than once and that recruitment process having been completed, at this length of time, it is not possible to consider his request. Aggrieved by the said endorsement, the petitioner preferred an application before the Tribunal.

3. The Tribunal on careful consideration of the entire material on record held firstly that the petitioner did not submit along with his application if any the certificate showing that he is entitled to reservation under Physically Handicapped Category. Secondly, on the ground that the petitioner has not filed any objection to the selection list that was published. In fact, material on record shows that the earlier selection list is the subject matter of the litigation, which had been taken to the Apex Court, the petitioner has not moved little finger. It is only after the entire selection process is over and appointments are made, he has approached the Tribunal. There is an inordinate delay and therefore, they declined to entertain his request and dismissed the application. Aggrieved by the said order, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner assailing the impugned order contended firstly that the last date for submitting the application

was extended up to 05.10.1999 and the petitioner submitted the documents showing that he belongs to Physically handicapped category on 24.09.1999 though he had filed the application on 31.03.1999. Therefore, the finding that the documents showing that he belongs to Physically Handicapped category he has not furnished, is incorrect. Secondly, the last candidate, who has been selected, has secured less mark when compared to the petitioner and therefore, he was eligible to be appointed. Lastly, it was contended that still there are some more vacancies in that category available, the Tribunal ought to have issued a direction, so that, without in any way affecting the persons who were already selected, the petitioner could also have been accommodated. It is for that reason the petitioner did not make the person who had obtained less mark than him as a party before the Tribunal. Therefore, he submits that seen from any angle the petitioner is entitled to relief as sought for.

6. Per contra, learned counsel for the respondent/State supported the impugned order.

7. Facts are not in dispute. According to the petitioner he filed an application for the post of Primary School Teacher on 31.03.1999. Along with the said application he did not produce any document showing that he is belonging to physically handicapped category. According to him, he has produced the document on 24.9.1999 as the last date was extended up to 5.10.1999. The order of extending the last date makes it very clear that the benefit is available only to the persons who have not made application. Admittedly, the petitioner has submitted his application on 31.03.1999. Therefore, he is not entitled to the extended benefit. Admittedly, the certificate was not enclosed along with the application. Even otherwise, as he has produced the documents on 24.09.1999, it is improper to take those documents and tag it in the file along with application, which was filed on 31.03.1999. In these circumstances,

the Tribunal was justified in holding that there was no document to show that he is belonging to physically handicapped category and therefore, his claim cannot be considered. Even otherwise, the selection list was published on 14.06.1999. The petitioner did not figure in the said list. In fact, other persons, who were selected filed objections. When their objections were not considered, they challenged the said list and the matter was taken to the Supreme Court. The petitioner kept quite. It is only after selection list, appointment was made, entire selection process was over, the petitioner gave a representation seeking for considering his request on the aforesaid ground i.e. nearly five years after the publication of the selection list. When he did not file objections to the selection list and when he approached the authority nearly after five years after publishing list, certainly the petitioner is not entitled to any relief as rightly held by the Tribunal. Merely because, some posts have remained, the petitioner has no right to seek for appointment for the said post. He

has not impleaded the person who has secured less marks than him according to him, on that ground the tribunal was rightly dismissed the appeal. We do not find any reasons in this writ petition. Hence it is dismissed.

Sd/-  
JUDGE

Sd/-  
JUDGE

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