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W.P.No.15274 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : .03.2024

CORAM:

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.15274 of 2012

A. Syed Sadiq

... Petitioner

Vs

1. The Secretary,
School Education Department,
St.George Fort, Chennai -9.
2. Director of Elementary Education Department,
DPI Campus, College Road, Chennai – 6.
3. District Elementary Educational Officer,
District Elementary Educational Office,
Villupuram.
4. Additional Assistant Elementary Educational Officer,
Gingee Union, Villupuram District.
5. U. Nasirunissa
6. K. Asimakathun

...Respondents



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Prayer: Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling the records of the fourth respondent in his Proceedings Letter Na.Ka.No. 640 of 2012 dated 08.06.2012 and quash the same and direct the first and fourth respondent to select the petitioner for head master post in Meenambur Boy's Panchayat Union Urdu Middle School at Palliapattu Village, Gingee Union as per G.O.Ms.No. 1383 dated 23.08.1988.

For Petitioner : Mr.G.Mohammed Aseef

For R1 to R4 : Mr.R.Neelakandan
Additional Advocate General
Asst. by Mr.T.M.Rajangam
Government Advocate.

For R5 : Mr.A.S.Kaizer

ORDER

This writ petition is filed seeking for issuance of Certiorarified Mandamus to quash the proceedings Letter Na.Ka.No. 640 of 2012 dated 08.06.2012 issued by the fourth respondent and to direct the first and fourth respondent to select the petitioner for head master post in Meenambur Boy's Panchayat Union Urdu Middle School at Palliapattu Village, Gingee Union as per G.O.Ms.No. 1383 dated 23.08.1988.

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2. The case of the petitioner is that he was working as Secondary Grade Urdu Teacher in the Meenambur (Girls) Panchayat Union Urdu Primary School and his period of service is 14 years as on the date of filing the writ petition and the petitioner has not got any promotion as Primary School Headmaster or Middle School Headmaster.

3. The petitioner was appointed on 04.08.1997 as Secondary Grade Urdu Teacher at T.Nallam Panchayat Union Urdu Elementary School, Marakkanam Block and served in the above Union till 02.07.2001. After that the petitioner was transferred to Municipal Urdu Primary school at Gidangal, Tindivanam and worked till 31.07.2005.

4. The learned counsel for the petitioner would submit that when petitioner was working in the above place he was a single teacher in the said school. The third respondent forcibly transferred the petitioner to Chinna Salem Panchayat at Union Urdu School, Villupuram District due to which he lost his promotion as a Headmaster in the same school.



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5. The petitioner challenged the above order of the respondent by way of Writ Petition No.35924 of 2004. The third and fourth respondents forced the petitioner to withdraw the above writ petition and orally given assurance to the petitioner that if he withdraw the above writ petition he will be transferred to Meenambur Boy's Panchayat Union Urdu Primary school, at Palliampattu Village, Gingee Union, Villupuram District which was the petitioner's first and best preference transfer and there will be huge chances for the Head Master post also.

6. It is further submitted by the learned counsel for the petitioner that the above third and fourth respondents have not fulfilled their promise and the petitioner worked at Chinna Salem School till 31.7.2007. The third and fourth respondents have not only fulfilled their promise but took vengeance against the petitioner for the reason that he filed writ petition for seeking justice in the Court of Law even after withdrawing his Writ Petition. Each and every time in the Head Masters promotion panel the petitioner was listed as a very junior in the panel list all the other persons who are very junior to the petitioner was



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shown as senior in the panel list.

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7. It is further submitted by the learned counsel for the petitioner that during the counseling for teachers transfer, the petitioner applied for transfer to Meenambur Boy's Panchayat Union Urdu Primary School, Palliampattu Village, Gingee Union, Villupuram District on 18.6.2005 through the Olakkur Union A.E.E.O, the 4 respondent herein, but his application was not even considered.

8. The fifth respondent namely U.Nasirunissa, Urdu Secondary Grade Teacher was illegally transferred instead of the petitioner to Meenambur Panchayat Union Primary school, Palliampattu Village, Gingee Union, Villupuram District by order Na.Ka.No.1214/A2/2005 dated 13.07.2005, joined there on 01.08.2005 and her date of birth was 02.07.1978. At that time her qualification was Diploma in Teacher's Training Education (Urdu) and her original date of appointment was 14.10.1999.

9. In the meanwhile, the above fifth respondent has got Headmistress promotion illegally on 06.07.2006 which was really the promotion meant for the petitioner. If the petitioner was transferred as per his request to the



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Meenambur Boy's Panchayat Union Urdu Primary School, at Palliambattu

Village, Gingee Union, Villupuram District as per his transfer application dated

18.06.2005 which was sent through the Olakkur Union A.E.E.O., the 4th respondent herein. At that time of her promotion, her qualification was HSC and Diploma in Teacher's Training Education (Urdu), but the petitioner was having the Education Qualification HSC, Diploma in Teacher's Training Education and B.A., (Urdu- ADIB-A-FAZIL) & M.A. (History).

10. It is further submitted by the learned counsel for the petitioner that K.AsimaKathun the sixth respondent whose date of birth was 02.05.1976 and her original date of appointment to the Secondary Grade Teacher (Urdu) was on 12.01.1999, at the time of her appointment her Education qualification was HSC and Diploma in Teacher's Training Education (Urdu). On the General counseling to the Teachers transfer the petitioner and the sixth respondent applied for transfer and both applications were considered by order Na.Ka.No.3124/A4/2007 dated 21.07.2007 issued to both of them. The sixth respondent was immediately relieved from the Panchayat Union Urdu Primary School, Veeramangalam, Ulundurpet Union, Villupuram District to Panchayat



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Union Urdu Middle School, Gingee Union, Villupuram District and joined on 25.07.2007, but the petitioner was not relieved from the above Chinna Salem Panchayat Union Urdu Primary School until 30.07.2007. On 31.07.2007 the petitioner was relieved from there and joined at Panchayat Union Urdu Primary School, Meenambur (Girls) on the same date i.e., 31.07.2007. The date of joining was six days difference to the petitioner and the sixth respondent.

11. The date of birth of the petitioner was 24.03.1968 and date of original appointment of the petitioner was 04.08.1997. The sixth respondent date of birth was 02.05.1976 and the date of appointment was 12.01.1999. The date of joining to the above Schools at Gingee Union of the petitioner and sixth respondent was six days in difference and this difference was taken into account illegally, by way of this kind of illegal criteria against the natural justice and against the constitution of India under Article 14 and 16. The sixth respondent was illegally promoted on 20.05.2008 by order Na.Ka.No.1609/A3/2008 as Headmistress instead of the petitioner in the above Meenambur (Boys) Panchayat Union Urdu Primary School, Gingee Union in which the same school the petitioner was not promoted as Headmaster as such



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he has higher qualification as HSC, Diploma in Teacher's Training Education and B.A., (Urdu- ADIB-A- FAZIL) & M.A. (History), B.Ed and higher seniority in service and also in the age.

12. Moreover, the Government of Tamil Nadu in G.O.Ms.No.1383, dated 23.08.1988 Education Department, clearly mentioned that the vacancy of Headmaster arising in a Urdu Primary/Middle School should be filled up by promotion of Urdu trained teacher of adequate qualification. Even when there was a vacancy for promotion to headmaster which came to be filled up, the respondents did not consider the case of petitioner and the same is in violation of G.O.Ms.No.1383, dated 23.08.1988. In the above G.O. itself, it is clearly stated that for preparation of annual list of eligible candidate for promotion of Headmasters appointment the crucial date on which the candidates should be qualified shall be the 1st January of every year was not followed by the respondents. The third respondent has not published the seniority list of Urdu language teachers, even though the other language teachers like Tamil, English was published. So the petitioner lost his seniority in Urdu language teachers.



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13. The above two opportunities which was stated supra i.e., during the promotion to the fifth and sixth respondents, the petitioner has illegally lost his legal promotion as Headmaster. Thereafter, the Government of Tamil Nadu, Palli Kalvi (C2) (School Education) Department by its G.O. (standing) No. 208, dated 12.08.2009, and in G.O.(standing) No. 181, dated 22.07.2009, for the academic year 2009-2010, 831 Primary Schools are upgraded as Middle School. As per the above G.O. in the Gingee Union one Panchayat Union Urdu Middle School Meenambur Boy's at Gingee Union was also upgraded from Primary School to Middle School and its serial No. 684 in the said Government order.

14. The main contention of the petitioner is that he did not get the promotion as Head Master due to illegal transfer of the petitioner from Tindivanam Municipal School to Chinna Salem Panchayat Union Urdu Primary School and in the General Counselling to the Teachers transfer application in which the petitioner's application dated 18.06.2005 was not legally processed by the respondents and also adopted illegal seniority "UNION SENIORITY" in which most of the junior teachers were treated as



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senior teachers as if they came to the concern union as “FIRST COME AS FIRST SENIOR PERSON IN THE UNION PANEL LIST” which was illegally followed by the first to fourth respondents.

15. The counseling for Headmaster post in primary, middle and higher secondary school all over Tamilnadu was about to start from June 16 and the counselling for headmaster post in Meenambur Boy’s Panchayat Union Urdu Middle School at Palliampattu Village, Gingee taluk was also going to filled in the said counselling.

16. As on date also the petitioner is the most senior in Age, service seniority and qualification seniority and at present having the education qualification is that Urdu D.T.Ed., M.A., (History), B.A(Urdu), D.I.S. Statistics, D.I.S. relating to Secondary & Special, D.O.M and D.I Test paper 2 and B.Ed., well qualified and competent person for promotion to the Headmaster post for the Palliampattu Panchayat Union Urdu Middle School, Meenambur boys, Gingee which is declared and upgraded by G.O.No.208 dated 12.8.2009 and G.O.No.181, dated 22.07.2009.

17. The petitioner name was not in seniority panel list published by



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Assistant Elementary Educational Office, Gingee Union on 01.01.2012. The petitioner gave a representation to third and fourth respondents regarding his seniority in promotion on basis of G.O.Ms.No.1383, dated 23.08.1988 on 24.04.2012 which was rejected by fourth respondent in Na.Ka.No.640/2012 dated 08.06.2012 and the said order is illegal and without application of mind.

18. The third respondent did not consider the petitioner service seniority and educational qualification for promotion in Urdu Middle School at Palliampattu village and the promotion of the fifth respondent as Primary School Headmaster on 13.07.2005 and the promotion of the sixth respondent as primary School Headmaster on 20.05.2008 was illegal and by both promotion, the petitioner has lost his opportunity being promoted as Headmaster.

19. The counter affidavit was filed by the third respondent in March 2013.

20. The learned Additional Advocate General appearing for the third respondent submitted that the Gingee Union, senior persons in service than the petitioner were working as Elementary School Headmasters in Urdu Schools with the requisite qualification for promotion to the post of Middle School



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Headmaster (Urdu), because of the petitioner joined in the Gingee Union by block transfer, he is treated as junior most in approved probationers in the category of Urdu Secondary Grade Teachers at the date of his joining.

21. The fifth respondent has also filed counter affidavit on 12th Janunary 2013.

22. The learned counsel for the fifth respondent submitted that it is a routine transfer. The transfer of the fifth respondent as Secondary Grade Assistant Teacher (Urdu) from Marakanam Panchayat Union to Gingee Panchayat Union, which was effected in the year 2005 was not challenged by any one and the date of appointment does not have any bearing on the present issue raised by the petitioner.

23. The fifth respondent was empaneled for the post of Elementary School Headmaster and was promoted as Elementary School Headmaster by an order dated 24-06-2006 and joined the said post on 07-07-2006. The above said order of promotion was also not challenged by anyone and she was continuing in the said post till her promotion as Middle School Headmaster. The petitioner's contention that if he had been transferred to Meenambur Boy's



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Panchayat Union Urdu Elementary School during 2005, he would have been given promotion as Elementary School Headmaster is imaginary and the additional qualification mentioned by the petitioner does not have any bearing for the promotion as Elementary School Headmaster, when the fifth respondent was having enough seniority and qualification for the post of Elementary School Headmaster.

24. The learned counsel for the fifth respondent further submitted that the Special Rules for the Tamil Nadu Elementary Educational Subordinate Service issued in G.O.Ms.No. 1383, Education (PUS-I) Department, dated 23.08.1988 does not say that only the Urdu trained teacher of adequate qualification alone is to be promoted as Elementary School Headmaster. Hence while promoting the fifth respondent as Elementary School Headmaster, there was no violation of the above said G.O as alleged by the petitioner.

25. The another contention of the petitioner is that because of the fifth respondent transfer and promotion as Elementary School Headmaster, the petitioner lost his opportunities is totally false. The petitioner as on date of filing the writ petition was a Secondary Grade Assistant Teacher, whereas the



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fifth respondent got the promotion as Elementary School Headmaster as early as on 24.06.2006. Now with requisite qualification for the post of Middle School Headmaster as required in the special rules for the Tamil Nadu Elementary Educational Subordinate Service, the fifth respondent got the promotion as Middle School Headmaster on 27.06.2012 and posted at the present station. As on date of filing the writ petition, the fifth respondent working in the said post and her entire services was unblemished and the fifth respondent apart from the minimum general qualifications with the Diploma in Teacher Training, she has also got the title of Oriental Learning in Urdu-Adib-E-Fazil, which has been recognized as equivalent to B.A. Degree in Branch XII-Urdu of Madras University. Hence there is no truth in the petitioner's contention that he is more qualified than the fifth respondent. The fifth respondent is the senior most person in the feeder category with requisite qualification has been accorded the promotion of Middle School Headmaster and till date of filing the writ petition, the petitioner was working only as Secondary Grade Assistant Teacher and was not eligible for promotion as Middle School Headmaster, while qualified Elementary School Headmasters



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are empaneled for the post of Middle School Headmaster.

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26. The learned counsel appearing for the fifth respondent drew the attention to the proceedings of the Director of Elementary Education, dated 18.12.2008 in which according to Clause 14, the seniority should be based only on date of joining in that particular union and the relevant paragraph is extracted hereunder:-

“14) ஆசிரியர் தேர்வு வாரியத்தின் மூலம் நியமனம் செய்யப்பட்ட பட்டதாரி ஆசிரியர்களின் தர எண் ஆசிரியர் தேர்வு வாரியத்தால் வழங்கப்படாததால், இவர்கள் ஒன்றியத்தில் பணியில் சேர்ந்த தேதியின்படி முன்னுரிமை நிர்ணயம் செய்ய வேண்டும். அவ்வாறு நிர்ணயம் செய்யும்போது, 01.06.2006 அன்று முதல் முறையான ஊதிய விகிதத்தில் உட்படுத்தப்பட்ட நிலையில், அனைவரும் 01.06.2006 அன்று பணியில் சேர்ந்ததாக கொண்டு, முதலில் 01.06.2006க்கு முன்னர் உள்ள பணிக்காலத்தில் அடிப்படையில் (Relative service) முன்னுரிமை நிர்ணயம் செய்ய வேண்டும். பணிக்காலம் ஒன்றாக இருக்குமானால் பிறந்த தேதி அடிப்படையிலும், பிறந்த தேதி ஒன்றாக இருக்குமானால் பெயர் அகர வரிசை (Alphabetical) அடிப்படையிலும் முன்னுரிமை செய்ய வேண்டும். மேற்படி நேரிடையாக பட்டதாரி/தமிழாசிரியராக நியமனம் பெற்றவர்கள் முன்னுரிமைப் பட்டியல் மற்றும் பேனலில் இடம் பெற்று பதவி உயர்வு வழங்க வேண்டியதிருப்பின் 01.01.2009க்கு முன்னர் அதாவது 31.12.2008க்குள்



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தகுதிகாண் பருவம் நிறைவு செய்து ஆணை வழங்கப்பட்டிருக்க வேண்டும்.”

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27. The copy of the said proceedings, University of Madras Certificate stating that the Oriental Learning Diploma in Adib-I-Fazil awarded to the fifth respondent by this University has been recognized as equivalent to the B.A.degree in Branch XII – Urdu in this University was also produced and submitted by the learned counsel appearing for the fifth respondent by way of filing typed set of papers.

28. Heard both sides and perused the materials available on record.

29. In the case on hand, the petitioner joined to the Panchayat Union Urdu Primary School, Meenambur (Girls) on 31.07.2007, whereas the sixth respondent K.Asimakathun joined in the Panchayat Union Urdu Middle, Gingee Union,Villupuram District on 25.07.2007. Hence the sixth respondent has become senior to the petitioner since the sixth respondent joined on 25.07.2007 and the petitioner joined on 31.07.2007. Hence there



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is six day of difference in the date of joining between the sixth respondent and the petitioner.

30. The fifth respondent was promoted as Elementary School Headmistress by order dated 24.06.2006 and joined in the said post on 07.07.2006. The petitioner was working as Secondary Grade Assistant Teacher as on the date of filing the writ petition. Whereas the fifth respondent was promoted as Elementary School Headmistress as earliest 24.06.2006. Since she has requisite qualification for the post of Middle School Headmaster as required in the Special Rules for the Tamil Nadu Elementary Educational Subordinate service Vide G.O.Ms.No. 1383 Education Department, dated 23.08.1988, she was promoted as Middle School Headmistress on 27.06.2012 and posted at the present station and working in the said post as on the date of filing the writ petition by the petitioner.

31. The fifth respondent apart from the minimum general qualification is also having title of Oriental Learning in Urdu Adib-E-Fazil, which has been recognized as Equivalent to B.A. degree in Brach XII-Urdu of Madras



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University. It is pertinent to note that the petitioner or any one has not challenged the promotion of fifth respondent as elementary school Headmistress on 24.06.2006 and the fifth respondent was continuing in the said post till the promotion as Middle School Headmistress on 27.06.2012 but whereas the petitioner even at the time of filing the writ petition was working only as Secondary Grade Assistant Teacher and not even promoted to the post of Elementary School Head master.

32. The third respondent also stated in the counter affidavit and the relevant paragraph is extracted hereunder for better appreciation and understanding:-

“12. With regard to the averments made in paras 14 to 18 of the affidavit, it is respectfully submitted that the in Gingee Union, senior persons in service, than the petitioner, were working as Elementary School Headmasters in Urdu Schools with the requisite qualification for promotion to the post of Middle School Headmaster (Urdu). Because of the petitioner joined in the Gingee Union by block transfer, he



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has treated as junior most in approved probationers in the category of Urdu Secondary Grade Teachers at the date of his joining. The position of the name of the petitioner in the Urdu Secondary Grade Teachers in Gingee Union Seniority list for the year 2012 (i.e. as on 1.1.2012) is as follows:

<i>Sl. No.</i>	<i>Name of the Urdu Secondary Grade Teacher</i>	<i>Date of first appointment</i>	<i>Date of joining in Gingee Union</i>	<i>Remarks</i>
1.	E. Badrun	02.03.2000	02.03.2000	Relinquished promotion. Hence not promoted.
2.	M. Bysutheen	28.11.1996	06.07.2006	Not qualified in Tamil language. Hence not eligible for promotion
3.	K.Asimakathun	12.01.1999	25.07.2007	Promoted as Urdu Elementary School Headmaster on 31.03.2012 (6th Respondent)
4.	A. Syed Sadiq	04.08.1997	31.07.2007	Next person to be promoted as Urdu Elementary School Headmaster (Petitioner)

As per the seniority list, the name of the petitioner is in serial number 4. The next avenue of promotion from Secondary Grade is Elementary School Headmaster. Hence, the petitioner is entitled to claim for promotion as Urdu



Elementary School Headmaster first and then claim for promotion as Urdu Middle School Headmaster if there are vacancies in existence in those posts. But being a Secondary Grade Teacher, the petitioner had claimed for promotion to the post of Urdu Middle School Headmaster (i.e. second level promotion). There is no provision in the rules for promoting a person directly to the post lies as second level promotion post. If there are no qualified persons in the feeder category to the second level promotion post, then only the qualified persons in the lower category than the feeder category (i.e. Secondary Grade) will be considered for promotion directly to the post of Urdu Middle School Headmaster that too according to seniority. The petitioner will be promoted according to seniority to the post for which to the available vacancy.

The claim of the petitioner for promotion to the post of Urdu Middle School Headmaster from Secondary Grade was not considered, since, there was senior qualified person in the feeder category of Urdu Elementary School Headmaster by name U.Nasirunnisa, who was joined in Gingee Union on 01.08.2005 as Secondary Grade Teacher and subsequently promoted as Urdu Elementary School Headmistress on



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6.7.2007. Hence being the only Urdu Elementary School Headmaster, the said U.Nasirunnisa, (who is the 5th respondent herein) was promoted as Urdu Middle School Headmistress by order of the District Elementary Educational Officer, Villupuram who is the 3rd respondent herein by his proceedings Na.Ka.No.2958 A3/2012, dated 27.6.2012. Like that, K.Asimakathun who is senior than the petitioner and the 6th respondent herein and also eligible for promotion to the post of Urdu Elementary School Headmaster was promoted as such post, by order of the 3rd respondent proceedings Na.Ka.No.1863 A3/2012, dated 31.03.2012. The action of the 3rd and 4th respondents in having promoted U.Nasirunnisa and K.Asimakathun (5th and 6th respondents) as Urdu Middle School Headmistress and Urdu Elementary School Headmistress is quite in order and within the rules. Hence the claim of the petitioner for promotion to the post of Urdu Middle School Headmaster was rejected by the 3rd Respondent and it is quite correct.

33. From the above facts, it is crystal clear and evident that the fifth



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respondent is senior to the petitioner and was promoted to the post of Elementary School Headmistress on 24.06.2006 and to the post of Middle School Headmistress on 27.06.2012 and the petitioner was only working as Secondary Grade Urdu teacher as on the date of writ petition.

34. In view of the above factual matrix of this case, this Court is of the considered view that the order passed by the fourth respondent in his proceedings letter No. Na.Ka.No.640 of 2012 dated 08.06.2012 does not warrants any interference by this Court and the same is hereby confirmed by this Court.

35. In the result, this writ petition stand dismissed. No costs.

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Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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School Education Department,
St.George Fort, Chennai -9.
2. Director of Elementary Education Department,
DPI Campus, College Road, Chennai – 6.
3. District Elementary Educational Officer,
District Elementary Educational Office,
Villupuram.
4. Additional Assistant Elementary Educational Officer,
Gingee Union, Villupuram District.



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