



W.P.(MD).Nos.19264. 19265. 19266 and 18196 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).Nos.19264. 19265. 19266 and 18196 of 2023
and W.M.P(MD)Nos.15965, 15966, 15968,
15970, 15967, 15969 and 15177 of 2023

In W.P(MD)No.19264 of 2023:

P.Sridharan

... Petitioner

Vs.

1.The Government of TamilNadu
Represented by its Principal Secretary,
School Education Department,
Fort St.George,
Chennai – 9.

2.The Director of School Education,
DPI Campus,
Nungambakkam, College Road,
Chennai

3.The Joint Director (HSS),
DPI Campus,
Nungambakkam, College Road,
Chennai

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Certiorarified Mandamus calling for the records pursuant to the impugned proceedings of the 2nd respondent in Na.Ka.NO.39620/W1/E1/2023 dated 24.07.2023 and quash the same and consequentially direct the respondents to issue fresh panel by including the



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name of the petitioner in the promotion panel for the post of Higher Secondary School, Head Master by fixing his seniority from the date of his joining his service.

In W.P(MD)No.19265 of 2023:

A.Sakthivel

... Petitioner

Vs.

1.The Government of TamilNadu
Represented by its Principal Secretary,
School Education Department,
Fort St.George,
Chennai – 9.

2.The Director of School Education,
DPI Campus,
Nungambakkam, College Road,
Chennai

3.The Joint Director (HSS),
DPI Campus,
Nungambakkam, College Road,
Chennai

... Respondents

In W.P(MD)No.19266 of 2023:

A.Balakrishnan

... Petitioner

Vs.

1.The Government of TamilNadu
Represented by its Principal Secretary,
School Education Department,
Fort St.George,
Chennai – 9.

2.The Director of School Education,
DPI Campus,
Nungambakkam, College Road,
Chennai



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3.The Joint Director (HSS),
DPI Campus,
Nungambakkam, College Road,
Chennai

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Certiorarified Mandamus calling for the records pursuant to the impugned proceedings of the 2nd respondent in Na.Ka.NO.39620/W1/E1/2023 dated 24.07.2023 and quash the same and consequentially direct the respondents to issue fresh panel by including the name of the petitioner in the promotion panel for the post of Higher Secondary School, Head Master by fixing his serniority from the date of his joining his service.

In W.P(MD)No.18196 of 2023:

S.Salai Arunmani

... Petitioner

Vs.

1.The Government of TamilNadu
Represented by its Principal Secretary,
School Education Department,
Fort St.George,
Chennai – 9.

2.The Director of School Education,
DPI Campus,
Nungambakkam, College Road,
Chennai

3.The Joint Director (HSS),
DPI Campus,
Nungambakkam, College Road,
Chennai

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Mandamus directing the respondents to pass appropriate orders to include the post of Computer Teachers as feeder category for promotion to the post of Higher Secondary School, Head Master and with a consequential direction directing the respondents to include the petitioner's name in the proposed promotion panel dated 01.01.2023 for the post of Higher Secondary School, Head Master by fixing his seniority from the date of his joining his service.

In all the Writ Petitions:

For Petitioners : M/s.Porkodi Karnan
M/s.Polax Legal Solutions
For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

COMMON ORDER

The writ petitioners in all these Writ Petitions have completed M.Sc., B.Ed., and M.Phil. in Computer Science. During the year 1999-2000, the 1st respondent decided to appoint Computer Instructors through its nodal agency Elcot for various Higher Secondary Schools and Corporation Schools. Pursuant to the same, the petitioners were appointed as Computer Instructors in the various Government Schools across the State of Tamil Nadu through nodal agency Elcot on consolidated payment.



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After the contract with the nodal agency was over, vide G.O.Ms.No.70 dated 23.01.2006, the Government passed an order sanctioning the consolidated pay to the petitioners, who were appointed through Elcot from August 2004 and subsequently the Government vide G.O.Ms.No. 30 dated 18.03.2005 started paying consolidated pay of Rs.2000/- per month to the petitioners.

2. After a period of 6 years of continuous service, the Government regularized the service of the petitioners through Special Teachers Recruitment Board Examination, which was conducted on 28.01.2007 through its appointment order dated 09.11.2008. Thereafter, the petitioners were brought under time scale of pay through G.O.Ms.No.187 (School Education Department) dated 04.10.2006, based on which, appropriate orders were issued by fixing time scale of pay to the petitioners on 10.11.2008. As per the said Government Order, the respondents vide proceedings dated 15.10.2011 regularized the petitioners from the date of their appointment, following which the petitioners were granted Selection



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Grade on completion of 10 years of service. That apart, the petitioners took classes for Higher Secondary students which are normally recognized as Post Graduate Assistant Post with regard to the subjects such as Physics, Chemistry and Biology etc. Even though the petitioners took classes for Higher Secondary School from the date of their initial appointment, their posts were fixed by the respondents under the category of B.T cadre. Even though the Teachers, who are at par with the petitioners even juniors to the petitioners in other subjects were considered for promotion to the post of Head Master in Higher Secondary Schools, the petitioners were not given with the said benefit. Therefore, the petitioners are functioning in the same post and they are recognized only in B.T cadre.

3. In the meanwhile, the School Education Department vide G.O.Ms.No.26 (School Education Department) dated 12.02.2019 upgraded the petitioners from Computer Instructors to the Computer Instructors Grade-I considering the qualification and nature of service



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rendered by them in the Higher Secondary Department, following which the orders were passed by the respondent on 02.09.2020 by upgrading the petitioners' posts with effect from the date of G.O.Ms.No.26 i.e 12.02.2019. Even after designating as Computer Instructors Grade-I, the petitioners are not being considered for the post of Head Master in the Higher Secondary Schools. The petitioners had send several representations on various dates to the respondents seeking them to include their names in the panel for promotion to the post of Higher Secondary School Head Master. However, the respondents did not act upon the various representations submitted by the petitioners. Hence, the petitioners filed W.P(MD)No.1724 of 2020 before this Court and this Court vide order dated 07.12.2022 directed the respondents to consider the petitioners' representations within a period of twelve weeks from the date of the order passed by this Court, following which enclosing the order passed by this Court on 07.12.2022 in W.P(MD)No.1724 of 2020, the petitioners had sent representations to the respondents.



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4. The 3rd respondent in response to the same vide proceeding dated 22.05.2023 had sent a communication to the petitioners separately by communicating that Rule 2(a) of Tamil Nadu Higher Secondary Educational Service Special Rules, method of recruitment says that vacancies arising in class-I(Higher Secondary School Head Master) of the service shall be filled up by recruitment by transfer and promotion from class-II and class -III of the service. In view of the same, necessary proposals to include the post of Computer Instructor Grade-I in class-II along with Post Graduate Assistant post in Tamil Nadu Higher Secondary Educational Service Special Rules is under active consideration of the Government. Unless and until the rules are duly amended by including the above post in the service rules, the petitioners would not be eligible to be included in the Higher Secondary School Head Master panel whenever the seniority reaches in future.

5.The fulcrum of the said proceedings would reveal that the Government has proposals to include the Computer Instructors Grade-I in



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the Tamil Nadu Higher Secondary Educational Service Special Rules and to include the Computer Teachers Grade-I in the promotion panel for the post of Higher Secondary School Head Master. It is also seen from the said communication that the said proposals would be given effect only from 12.02.2019 i.e the date of G.O.Ms.No.26.

6. While so, the 2nd respondent vide proceedings dated 24.07.2023 has prepared the panel of candidates eligible for promotion to the post of Higher Secondary School Head Master for 670 vacancies. None of the candidates from the Computer Science Department are considered to be included in the said promotion panel. Hence, challenging the said proceedings of the 2nd respondent dated 24.07.2023, the petitioners have filed three Writ Petitions in W.P.(MD).Nos.19264. 19265. 19266 of 2023. However, W.P(MD)No.18196 of 2023 was filed by by one Salai Arunmani for issuance of writ of mandamus seeking to include the post of



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Computer Teachers as feeder category for promotion to the post of Higher Secondary School Head Master.

7. When the matters were taken up for hearing, Mrs.Porkodi Karnan, for POLLAX Legal Solutions, learned counsel appearing for the petitioners submitted that the petitioners in W.P.(MD).Nos.19264. 19265. 19266 of 2023 have confined to limit the prayer only with respect to issuance of writ of mandamus seeking to include the post of Computer Teachers as feeder category for promotion to the post of Higher Secondary School Head Master and they will not press upon quashing the proceedings of the 2nd respondent dated 24.07.2023.

8. Per contra, the 2nd respondent has filed a counter affidavit in all the Writ Petitions. Mr.Ramesh Arumugam, learned Government Advocate by relying upon paragraph Nos.16 and 17 of the counter affidavit submitted that the number of Head Masters posts are less than the number



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of Post Graduate Teachers. More number of Post Graduate Teachers, who are senior to the Teachers, are yet to be promoted. The petitioners' names would be considered for promotion when the Post Graduate Teachers appointed during the year 2019 are taken up for consideration if otherwise qualified. However, he also submitted that already necessary proposals to include the post of Computer Instructors Grade-I in class-II along with Post Graduate Assistant posts in Tamil Nadu Higher Secondary Educational Service Special Rules, is under active consideration of the Government. Mr.Ramesh Arumugam, learned Government Advocate though fairly submitted the stand of the Government that the petitioners' plight are under consideration, he proceeded to contend that it is a policy decision which has to be taken by the Government. The petitioners cannot insist upon as to when and how the proposals are to be considered by the Government. He further submitted that pursuant to the order passed by this Court in W.P(MD)No.1724 of 2020 dated 07.12.2022, the 3rd respondent vide proceedings dated 22.05.2023 observed that for including the Computer Instructors Grade-I post in the panel for Higher Secondary



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School Head Masters appropriate amendment in the Tamil Nadu Higher Secondary Educational Service Special Rules would be made. In view of the same, he contended that the petitioner ought to have challenged only the communication of the 2nd respondent dated 22.05.2023 and they are not entitled to seek directions with the positive mandamus from the Government by filing another Writ Petition for mandamus simpliciter.

9. Heard Mrs.PorkodiKarnan, learned counsel for the petitioners and Mr.Ramesh Arumugam, learned Government Advocate appearing for the respondents and carefully perused the materials available on record.

10. The petitioners, who were recruited through Elcot as early as during the period 1999-2000, have continued to work in the service of the respondents without any break in service. As a result of their meritorious service, they were duly appreciated by the Government by regularizing them from their date of appointment. Therefore, their case was also



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upgraded from B.T Assistant grade to Post Graduate cadre. Despite appreciating the service rendered by them, their case is not considered for promotion to the post of Higher Secondary School Head Masters at par with the regular Teachers. This is second round of Writ Petition and this Court has also passed an order dated 07.12.2022 in W.P(MD)No.1724 of 2020 directing the respondents to consider the petitioners' representations within a stipulated period of time. The 3rd respondent pursuant to the order of this Court vide communication dated 22.05.2023 has communicated that the case of the petitioners for promotion to the post of Higher Secondary School Head Master would be considered by effecting appropriate amendment in the Tamil Nadu Higher Secondary Educational Service Special Rules and thereafter their case will be considered for promotion with effect from the date of G.O.MsNo.26 School Education Department dated 12.02.2019. Though the petitioners claim that their post has to be regularized from their date of appointment as early as in 2003, vide communication dated 22.05.2003 the 3rd respondent has communicated that if at all promotion of the petitioners to the post of



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Higher Secondary School Head Master has to be considered, the same could be done only from the date of G.O.Ms.No.26 dated 12.02.2019.

11. In the line of the submission of the learned Government Advocate, this Court is of the view that it is the policy decision of the State, which has to be taken by the Government and only after making appropriate amendment in the relevant rules, the case of the petitioners would be considered for promoting them to the post of Higher Secondary School Head Masters as discussed supra. Though the learned Government Advocate claims the communication of the 3rd respondent dated 22.05.2023 ought to have been challenged by the petitioners, this Court hereby directs the 1st respondent to take a final decision in the matter to include the petitioners/Computer Instructors Grade-I as feeder category for promotion to the post of Higher Secondary School Head Masters within a period of sixteen (16) weeks from the date of receipt of a copy of this order and pass appropriate orders in accordance with law.



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12. Since the petitioners W.P.(MD).Nos.19264. 19265. 19266 of 2023 have given up to challenge the impugned order of the 2nd respondent dated 24.07.2023, this Court is not inclined to interfere with the impugned order dated 24.07.2023 of the 2nd respondent.

13. In fine, all the Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

26.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
CM



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L.VICTORIA GOWRI, J.

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