

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.7518 & 7519 of 2007 (T)
(O.A.Nos.5692 of 2002 & 6248 of 1995)

R.Lakshmipathy .. Petitioner in W.P.Nos.7518 & 7519 of 2007

-vs-

The Joint Director of
School Education
College Road
Nungambakkam
Chennai-6

.. Sole Respondent in W.P.No.7518 of 2007

The Joint Director of
School Education
(Higher Secondary)
Madras-6

.. 1st Respondent in W.P.No.7519 of 2007

The Government of Tamil Nadu
represented by its Secretary
to Government
Education, Science and
Technology Department
Fort St.George
Madras 600 009

.. 2nd Respondent in W.P.No.7519 of 2007

The Headmaster
Government Higher
Secondary School
Podaturpet
Chengai MGR District

.. 3rd Respondent in W.P.No.7519 of 2007

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W.P.No.7518 of 2007 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, to direct the respondent to regularise the service of the petitioner as Post Graduate Assistant (History-Telugu medium) from 17.10.94 to 28.11.96 and award the consequential increments and monetary benefits from the date of promotion of the petitioner as P.G.Assistant.

W.P.No.7519 of 2007 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records relating to G.O.Ms.No.424, Education, Science and Technology Department dated 5.6.95 and the proceedings of the Joint Director of School Education (Higher Secondary), Madras-6 in Na.Ka.No.39160/W3/94 dated 7.9.95 and quash the same to effect his promotion as P.G.Assistant from 23.1.91, the date on which his junior Mr.K.Munuswamy is promoted and service regularised as prayed by the petitioner in his O.A.No.2379 of 1994.

For Petitioner :: Mr.K.Thennan

For Respondents :: Mr.K.V.Dhanapalan
Additional Government Pleader

ORDER

The petitioner filed two original applications before the Tamil Nadu Administrative Tribunal, Chennai. O.A.No.6248 of 1995 has been directed against the impugned order of reversion dated 7.9.95 issued by the Joint Director of School Education (Higher Secondary), Madras in Na.Ka.No.39160/W3/94, on the ground that the petitioner was not issued with any notice whatsoever, thereby the impugned order is violative of the Special Rules for the Tamil Nadu Higher Secondary Educational Service and also offending Articles 14 and 16 of the Constitution of India. O.A.No.5692 of 2002 has been filed to direct the respondent to regularise his services as Post Graduate Assistant (History-Telugu medium) from 17.10.94 to 28.11.96 and to pay the consequential monetary benefits. After the abolition of the Tribunal, both the applications came on transfer and renumbered as the present writ petitions. Since the issue is common, the facts as pleaded in W.P.No.7519 of 2007 (O.A.No.6248 of 1995) are referred to in this order.

2. Learned counsel for the petitioner submitted that the petitioner was appointed as B.T. Assistant on 24.6.69 in Government Higher Secondary School, Arakkonam and later on he completed his M.A. (History) in December, 1982. On this basis, he submitted a request for promotion as Telugu medium History P.G.Assistant, as his junior one Mr.K.Munuswamy, who was appointed on 16.7.70, was already promoted as P.G.Assistant (History) on 23.1.91 and working at Government Higher Secondary School, Pallipet then. In reply to the said representation, the Director of School Education in his proceedings Rc.No.167475/W3/92 dated 11.10.93 informed the petitioner that his claim would be considered as and when the vacancy arises in future. Subsequently, his name was also included in the panel of the

year 1993-94 vide the proceedings of the joint Director of School Education (Higher Secondary) in Rc.No.39160/W3/94 dated 30.9.94. However, he was not given promotion in the said academic year. In view of that, the petitioner approached the Tribunal with O.A.No.2379 of 1994. Accepting the case of the petitioner, the Tribunal passed an order that the petitioner should be promoted as P.G.Assistant in any of the future vacancies. Subsequently, the petitioner's name was also included in the promotion panel prepared for the academic year 1994-95 and was posted to Government Higher Secondary School, Podathurpet as Telugu medium History P.G.Assistant on the basis of the proceedings issued by the Joint Director of School Education, Madras in Rc.No.39160/W3/94 dated 5.10.94. Therefore, the grievance of the petitioner is that when he was promoted as P.G.Assistant by order dated 5.10.94 from Assistant Educational Officer, Arakkonam to Government Higher Secondary School, Podathurpet, he ought not to have been reverted by the impugned order dated 7.9.95 from the post of P.G.Assistant with a further direction that he would be given posting order only in the Tamil Nadu Education Subordinate Service. In support of his submissions, the learned counsel also relied upon an order passed by this Court in W.P.No.16968 of 2006 dated 26.2.2007 (P.Karunanithi v. Joint Director of School Education (Higher Secondary), Madras).

3. Heard the learned Additional Government Pleader for the respondents also.

4. A perusal of the order passed in W.P.No.16968 of 2006 dated 26.2.2007 shows that the order of reversion impugned therein did not disclose either an amendment to the Special Rules or any factual finding as to whether there was any other candidate, who was qualified in the same subject, both in the under-graduate or post-graduate course and such reversion order shall be treated as contrary to the Special Rules. Holding so, this Court had set aside the reversion order giving a finding that the same was contrary to the Special Rules. Finally a direction was given to the official respondent to treat the petitioner therein as having continued in the post of P.G.Assistant (Tamil) till the date of his retirement.

5. In the present case also, the petitioner, having been reverted by order dated 7.9.95, after two years, was subsequently promoted to the post of Headmaster of high school and thereafter, on reaching the age of superannuation, retired from service. Therefore, as directed by this Court in the aforementioned writ petition, the impugned order of reversion is hereby set aside, as it was done without giving any opportunity of hearing to the petitioner. Consequently, the official respondents are directed to regularise the services of the petitioner in the post of P.G.Assistant (History) at Government Higher Secondary School, Podaturpet for the period from 17.10.94 to 28.11.96 and pay the arrears of salary for the said period to which he is entitled to, as though he served as

P.G.Assistant. Accordingly, W.P.No.7519 of 2007 is allowed. In view of the above, no order is necessary in W.P.No.7518 of 2007 and the said writ petition is closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Joint Director of
School Education
College Road
Nungambakkam
Chennai 600 006

2. The Secretary to Government
Education, Science and
Technology Department
Fort St.George
Chennai 600 009

3. The Headmaster
Government Higher
Secondary School
Podaturpet
Chengai MGR District

+1 cc to Government Pleader sr.15629

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