

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2015

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THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.21735 of 2015

And

M.P.Nos.1 and 2 of 2015

S.Shanmugavelu

... Petitioner

Vs.

- 1 The State of Tamilnadu
rep. by its Principal Secretary to
Government School Education Department
Secretariat Fort St. George Chennai-9
- 2 The Director of Elementary
Education DPI Campus Collage Road
Chennai-6
- 3 The District Elementary
Educational Officer Nagapattinam District
Nagapattinam.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.11825/D3/2010 dated 20.04.2010 and subsequent order issued by the 3rd respondent in Na.Ka.No.1006/Aa4/2015 dated 25.05.2015 and to quash the same and consequently direct the respondents to promote the petitioner to the post of Middle School Headmaster on par with juniors given promotion based on 2010 panel by reckoning the services from the date of initial appointment in the post of Secondary Grade Assistant as regularized as per G.O.Ms.No.336 School Education Department dated 30.12.2009 with corresponding revision of Seniority in the promoted post with all consequential and other attendant benefits including arrears pf salary within a time frame.

For Petitioner : Mr.G.Sankaran
For Respondents : Mrs.M.E.Rani Selvam
Additional Government Pleader

O R D E R

Since the impugned order is contrary to G.O.Ms.No.336 School Education Department dated 30.12.1999 and also the order of this Court dated 30.07.1999 made in W.P.Nos.221 of 1991 etc batch, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner was appointed as Secondary Grade Assistant (Junior Grade) in Elementary Education on consolidated pay of Rs.800/- per month on 17.06.1991 in the sanctioned post as per G.O.Ms.No.1524, Education (M-1) Department, dated 12.11.1990. That is, in the sanctioned post of Secondary Grade Teacher, the Government sought to appoint Teachers in consolidated pay in the designation of Secondary Grade Assistant (Junior Grade). Such appointments took place in the year 1991-92. Thereafter, the Government issued G.O.Ms.No.20, Education Department, dated 08.01.1993 by which those Teachers were brought to regular time scale of pay with effect from 01.09.1992.

3.The Secondary Grade Assistant (Junior Grade) Teachers filed various writ petitions in W.P.Nos.221 of 1991 etc batch claiming time scale of pay from their initial date of appointment since they were regularly appointed and they also possess the requisite qualification.

4.The writ petitions in W.P.Nos.221 of 1991 etc batch were allowed by this Court on 30.07.1999. The writ appeals preferred against the aforesaid orders in W.A.Nos.1585 to 1624 of 2001 batch were rejected on 11.04.2008.

5.This Court held in the aforesaid judgments that the Teachers were appointed after selection process on regular basis to the post of Secondary Grade Assistant (Junior Grade) on consolidated pay and therefore, they are entitled to time scale of pay from the date of appointment. That is, this Court held categorically that their appointment was made on regular basis. In these circumstances, the Government issued G.O.Ms.No.336, School Education Department, dated 30.12.1999 to implement the aforesaid order.

6.Accordingly, those Teachers including the petitioner were granted time scale of pay from the date of appointment. However, the second respondent issued the proceedings dated 20.04.2010 stating that in the case of those Teachers, the date of initial appointment is taken for the purpose of granting of time scale of pay, for Selection Grade and Special Grade and the same cannot be taken for the purpose of seniority.

7.In my considered view, the said letter dated 20.04.2010 of the second respondent is contrary to and in violation of the order of this Court made in W.P.Nos.221 of 1991 etc batch on 30.07.1999 and also G.O.Ms.No.336 School Education Department dated 30.12.1999. It is useful to extract the following passage in paragraph no.2 of

G.O.Ms.No.336 School Education Department dated 30.12.1999 which reads as follows:

"2.The Secondary Grade Assistants filed writ petitions claiming regular time scale from their dates of appointment. The Hon'ble High Court, Madras in its order, dated 30.7.1999, in batch cases W.P.No.221/91 etc. has ordered that, "all appointments made in pursuance of the impugned Government orders shall be treated as regular appointments and the petitioners are entitled to regular time-scale of pay with effect from the date of their respective initial appointments and not from the date as indicated in the Government orders.""

8.The aforesaid extract makes it clear that the appointments were regular appointments. Hence, the second respondent is not correct in refusing to count the date of appointment for the purpose of seniority, in the letter dated 20.04.2010. When the appointments were neither irregular nor illegal, the date of appointment shall be taken for the purpose of counting the seniority. Hence, I have no hesitation to set aside the order dated 20.04.2010. Based on the aforesaid order dated 20.04.2010, consequential order dated 25.05.2015 is passed by the third respondent. Hence, the same is also liable to be set aside. Accordingly, both these orders are set aside.

9.The second respondent is directed to pass fresh order in the light of the judgment dated 30.07.1999 made in W.P.Nos.221 of 1991 etc batch and G.O.Ms.No.336, School Education Department, dated 30.12.1999 by taking into account the date of initial appointment of those Teachers, who were appointed under G.O.Ms.No.1524 Education (M-1) Department dated 12.11.1990, for seniority. The second respondent is directed to pass appropriate orders in the above terms within a period of four weeks from the date of date of receipt of a copy of this order.

10.The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

- 1 The Principal Secretary to
Government School Education Department
Secretariat Fort St. George Chennai-9
- 2 The Director of Elementary
Education DPI Campus Collage Road
Chennai-6
- 3 The District Elementary
Educational Officer Nagapattinam District
Nagapattinam.

- 1 cc to Mr.G.Sankaran, Advocate Sr.No.37527
1 cc to Government Pleader.Sr.No.37422

W.P.No.21735 of 2015
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