



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2015

Coram

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) .No.11619 of 2015

A.Gandhi

:Petitioner

vs.

1.The Director of School Education,
Chennai - 600 006.

2.The Chief Educational Officer,
Sivagangai, Sivagangai District.

3.The District Educational Officer,
Sivagangai, Sivagangai District.

4.N.S.M.V.P.S.Higher Secondary School,
represented by its Secretary,
Devakkottai - 630 302,
Sivagangai District.

: Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Mandamus directing the respondents 2 and 3 to approve the promotion of the Petitioner to the post of Junior Assistant from 4.10.2007 with all monetary and service benefits and to refix the pension within the time stipulated by this Court.

For Petitioner :M/s.T.Lajapathi Roy

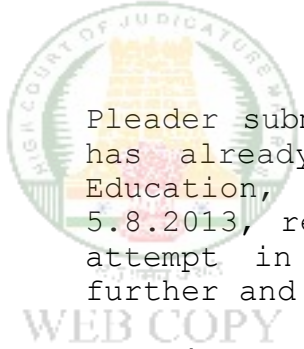
For Respondents :Mr.V.Muruganandam
Additional Govt.Pleader

ORDER

This Writ Petition has been filed praying for issuance of a Writ of Mandamus, directing the respondents 2 and 3, to approve the promotion of the Petitioner to the post of Junior Assistant from 4.10.2007, with all monetary and service benefits and to refix the pension within the time stipulated by this Court.

2. The case of the petitioner is that the respondents 2 and 3 will have to approve the promotion of the petitioner to the post of Junior Assistant, with effect from 4.10.2007, with all consequential benefits and that there are vacancies. In spite of his representation, dated 23.04.2015, the 1st respondent having kept the matter pending stating that the Government will decide the issue of permission for filling up of the post in the Aided Primate School, no action has been taken. It is further submitted that, since the petitioner is eligible for promotion and fulfilled all the necessary condition, he should be considered and promoted, as Junior Assistant, with effect from 4.10.2007.

3. Per contra, Mr.V.Muruganandam, the learned Additional Government



Pleader submitted that for the very same cause of action, the petitioner has already made a representation and that the Director of School Education, Chennai, has already taken a decision, as early as on 5.8.2013, rejecting the request of the petitioner. Having failed in the attempt in the appeal, the petitioner cannot agitate the issue any further and it is hit by resjudicata.

4. In reply, the petitioner would submit that no final decision has been taken and that forced him to make a representation and consider the case of the petitioner for promotion.

5. Heard both parties.

6. It is not in dispute that the petitioner's claim for promotion to the post of Junior Assistant from 4.10.2007, was considered but, it was not completely rejected and what it has been stated is that the Government will decide the issue of permission for filling up of certain posts in the Aided School and that the matter is kept pending. Hence, there was no finality to the issue and that it cannot be said that the issue has come to finality and the issue raised by the petitioner is hit by resjudicata. I find much force in the contention of the petitioner. The petitioner made a representation on 23.04.2015. The appropriate authority is directed to consider the same and pass orders in accordance with law, within a period of three months from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. No costs.

MPK

sd/-

Assistant Registrar (Per.Admin)

/True copy/

Sub Assistant Registrar

To

1.The Director of School Education, Chennai - 600 006.

2.The Chief Educational Officer,
Sivagangai, Sivagangai District.

3.The District Educational Officer,
Sivagangai, Sivagangai District.

+One cc to Mr.T.Lajapathi Roy, Advocate, SR.No. 37885

+One cc to Special Government Pleader, SR.No. 38059

W.P. (MD) .No.11619 of 2015

Dated: 09.07.2015

CSL/27.07.2015

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