

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01-07-2016

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.37078 of 2015
and M.P.Nos. 1 and 2 of 2015 and W.M.P.No.5927 of 2016

K.Thirumurugan

.. Petitioner

Vs.

1.The Director of Elementary Education Officer
DPI Campus
College Road
Chennai-600 006.

2.The District Elementary Educational Officer
Ariyalur District.

3.The Assistant Elementary Educational Officer
Jeyamkondam.

4.A.Amudha
Middle School Headmaster
Panchayat Union Elementary School
Kallathur
Jeyamkondam Union.

.. Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Ceriorarified Mandamus, to call for the records of the 2nd respondent herein in Na.Ka.No.0424/A2/2014, dated 17.06.2014 promoting the 4th respondent to the post of Middle School Headmaster and quash the same and further, to call for the records of the consequential order of the 2nd respondent passed in Na.Ka.No.1342/A2/2014, dated 16.06.2015 and quash the same so far as the denial of promotion to the petitioner to the post of Middle School Headmaster is concerned and consequently, to grant promotion to the petitioner to the post of Middle School Headmaster by taking into consideration of the fact that the petitioner's rank No.1 in the panel for promotion to the post of Middle School Headmaster for the Jeyamkondam Panchayat Union for the year 01.01.2013 and pass such further orders as this Court may dem fit and proper in the facts and circumstances of the case.

For Petitioner : Mrs.Dakshayani Reddy
For Respondents : Mr.K.V.Dhanapalan
Additional Government Pleader
for R.1 to R.3

O R D E R

This Writ Petition has been filed to issue a Writ of Ceriorarified Mandamus, to call for the records of the 2nd respondent herein in Na.Ka.No. 0424/A2/2014, dated 17.06.2014 promoting the 4th respondent to the post of Middle School Headmaster and quash the same and further, to call for the records of the consequential order of the 2nd respondent passed in Na.Ka.No.1342/A2/2014, dated 16.06.2015 and quash the same so far as the denial of promotion to the petitioner to the post of Middle School Headmaster is concerned and consequently, to grant promotion to the petitioner to the post of Middle School Headmaster by taking into consideration of the fact that the petitioner's rank No.1 in the panel for promotion to the post of Middle School Headmaster for the Jeyamkondam Panchayat Union for the year 01.01.2013

2. The petitioner was initially appointed as B.T.Assistant in the Jeyamkondam Panchayat Union, on 12.09.2005. The grievance of the petitioner is that when a vacancy arose in the year 2013, the 4th respondent was not in the panel prepared for promotion to the post of Middle School Headmaster within the Jeyamkondam Panchayat Union, and as per the seniority list prepared, the petitioner ought to have been appointed in the said post, but, he was denied promotion and the 4th respondent was given promotion. Hence, seeking the relief stated supra, the present Writ Petition has been filed.

3. Mrs.Dakshayani Reddy, the learned counsel for the petitioner pointed out that in the counter, the 3rd respondent himself has accepted that presently the petitioner possess the requisite qualification and he is eligible for promotion and therefore, in the future vacancy, the petitioner's name may be considered for promotion to the post of Middle School Headmaster.

4. Mr.K.V.Dhanapalan, the learned Additional Government Pleader, who took notice on behalf of the respondents, would contend that in the year 2013, a vacancy arose in the post of Middle School Headmaster, but due to certain litigations pending before this Court with regard to the validity of G.O.Ms.No.107 i.e., the validity of undergoing the degree programme without doing +2, the said seniority list was not operated for the said year. Further, in 2013, the petitioner did not possess the requisite qualification, therefore, he was not promoted, but,

the 4th respondent was given promotion, vide proceedings, dated 17.06.2014. He would further add that the said G.O. was revoked by another G.O.Ms.No.242 passed by the Government. Based on the G.O.Ms.No.242, the petitioner is now qualified to the post of Middle School Headmaster and therefore, in the future vacancy, the petitioner will be considered for promotion.

5. Heard both sides. By consent, this Writ Petition is taken up and disposed of.

6. It is relevant to refer to the counter filed by the 3rd respondent, wherein, in paragraph Nos. 6 and 7, he has stated as follows:-

"6. It is submitted that the respondent also admit the facts stated by the petitioner in the affidavit. Based on G.O.ms.No.107, the petitioner has not qualified to the post of Middle School Headmaster, hence the 4th respondent was promoted vide Na.Ka.No.0424/A2/2014 as a middle school headmaster subject to the outcome of the writ petition filed by the petitioner in W.P.No.13411 of 2014. Hence the appointment of 4th respondent is valid in the eye of the law and the petitioner cannot challenge the same.

7. It is submitted that this Hon'ble Court passed an order in W.P.No.13411 of 2014 for consider the representation of the petitioner, on the receipt of this Hon'ble Court order the 2nd respondent issued order vide Na.Ka.No.1342/A2/2014, dated 16.06.2015 stated that "there is no vacancy for appointment of the petitioner, hence the petitioner representation was rejected by the respondent". But thereafter the said G.O.Ms.No.107 was revoked by another one G.O.Ms.No.242 passed by the Government. Based on the G.O.Ms.No.242 now the petitioner is qualified to the post of Middle School Headmaster. The impugned order passed by the respondent based on the said G.O.Ms.107 before the same was repealed by the Government. Hence there is no illegality or infirmity of the order passed by the 2nd respondent. If Hon'ble Court by passing an order for promoting the petitioner as a Middle School Headmaster, based on the G.O.No.242, the respondent will abide by the order of this Hon'ble Court in the future vacancy."

From a reading of the above, it is evident that the 3rd respondent himself has averred that based on the G.O.Ms.242 now the petitioner is qualified for promotion to the post of Middle School Headmaster and that in the future vacancy, the petitioner will be considered for promotion to the post of Middle School

Headmaster, based on the said Government Order. The statement made by the 3rd respondent in the counter affidavit is recorded.

7. Based on the statement made by the 3rd respondent in the counter affidavit that the petitioner is now qualified for promotion to the post of Middle School Headmaster, it is made clear that in the future vacancy, the petitioner shall be promoted to the said post, based on the G.O.Ms.No.242. This Writ Petition is ordered accordingly. The connected Miscellaneous Petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

paa

To

- 1.The Director of Elementary Education Officer
DPI Campus
College Road
Chennai-600 006.
- 2.The District Elementary Educational Officer
Ariyalur District.
- 3.The Assistant Elementary Educational Officer
Jeyamkondam.

+1cc to Mrs. Dakshayani Reddy, Advocate, S.R.No.37062

Writ Petition No.37078 of 2015

VS (CO)
Eu 18.7.16

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