

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No. 20971 of 2006

P. Ganga Devi

.. Petitioner

Versus

1. The District Elementary Educational Officer
Kancheepuram

2. The Assistant Elementary Educational Officer
Madurantakam

... Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the proceedings dated 20.01.2016 of the first respondent herein in Na.Ka.No.312/A5/2005 and quash the same and consequently directing the first respondent herein to revise the seniority list for the post of Primary School Headmistress in respect of the petitioner and place the petitioner in accordance with her grade number allotted by the Recruitment Board in the year 1995.

For Petitioner

:

Mrs. AL. Ganthimathi

For Respondents

:

Mr. Rajendra Prasad

Additional Government Pleader

ORDER

The petitioner has filed this writ petition questioning the correctness of the order dated 20.01.2016 of the first respondent, by which the request of the petitioner to revise the seniority list was rejected.

2. While the petitioner was working as Secondary Grade Assistant in Panchayat Elementary School, Chithandi Mandapam, she was selected by the Teachers Recruitment Board and was appointed as Secondary Grade Teacher on 02.08.1995. The services of the petitioner was regularised on 01.08.1997. At the time of selection of the petitioner, she was allotted grade number 1402 by the Teachers Recruitment Board. According to the petitioner, during the year 1995, when the teachers were recruited, since there were no vacancies to accommodate them in their native districts, the Government issued GO Ms. No.388, Education, Science and Technology Department dated 19.06.1996 ordering that even though the teachers are transferred outside the Union, they can retain their grade number for the purpose of claiming seniority when they were transferred for the first time. Following this order, the Director of Elementary

Education, Chennai issued a Circular dated 10.03.2000 stating that while the teachers can retain the grade number to assert seniority when they were transferred for the first time, however, they cannot retain the grade number if they happen to be transferred for the second time. Therefore, according to the petitioner, on the basis of the aforesaid Government Order and the Circular, she is entitled to retain her grade number for the purpose of asserting seniority when she was transferred for the first time out of the Panchayat Union where she was appointed. However, when the seniority list was prepared, the juniors of the petitioner have been placed above the petitioner and therefore, she has given a representation to the respondents on 15.06.2005, followed by a reminder dated 22.07.2005. As there was no response, the petitioner filed WP No. 38177 of 2015 for a Writ of Mandamus directing the respondents to revise the seniority list in the cadre of Secondary Grade Teacher and for a consequential promotion as Primary School Headmistress. By order dated 25.11.2005, this Court disposed of the writ petition with a direction to the first respondent to consider the representation dated 15.06.2015, followed by reminder dated 22.07.2005 and to pass order within a period of four weeks. Pursuant to such direction, the first respondent has passed the impugned order rejecting the claim of the petitioner for revision of seniority.

3. I heard the counsel for both sides. The learned counsel appearing for the petitioner has brought to the notice of this Court that the issue involved in this writ petition has already been adjudicated by this Court in the order dated 03.03.2016 passed by this Court in WP (MD) No. 12090 of 2006 wherein, in an identical case, it was held by this Court that if any appointment is made as Secondary Grade Teacher in the year 1995 and such teacher is transferred for the first time from one Panchayat Union to another Panchayat Union, the original seniority should be maintained. In Para Nos. 3 to 8, it was held by this Court as follows:-

"3. The learned counsel appearing for the petitioner has advanced his arguments on the basis of G.O.Ms.No.388, wherein it has been clearly stated that if any appointment is made in the year 1995 and subsequently transferred to some other Panchayat Union, the original seniority list shall be maintained.

4. In fact, in G.O.Ms.No.388 it has not been specifically mentioned to the effect that if any transfer is made for the first time from a district to native district, the original seniority shall be maintained. Therefore, it is quite clear that if any transfer for the first time is made from one district to another district, original seniority should be maintained.

5. It is an admitted fact that in the year 1995 the petitioner has been selected as Secondary Grade Teacher and appointed in R.S.Mangalam Panchayat Union and in the year 1997, he has been transferred to Thiruvadanai Panchayat Union and both the

Panchayat Unions are in the same district. Since the reason assigned by the second respondent for rejecting the claim of the petitioner has not been specifically mentioned in G.O.Ms.No.388, it is very clear that the contention put forth on the side of the petitioner can be accepted.

6. The learned Government Advocate has contended that since the petitioner has been transferred within the same district, he cannot avail the benefit mentioned in G.O.Ms.No.388 and therefore the impugned order passed by the second respondent is perfectly correct.

7. As stated supra, in G.O.Ms.No.388 no such difference is found place. To put it in short, if any appointment is made as Secondary Grade Teacher in the year 1995 and transferred for the first time from one Panchayat Union to another Panchayat Union, the original seniority should be maintained. Therefore it is quite clear that the reason assigned by the second respondent does not find place in G.O.Ms.No.388. Under the said circumstances, the impugned order passed by the second respondent is liable to be quashed.

8. In fine, this Writ Petition is allowed and the impugned order dated 23.09.2008 passed in Na.Ka.No.4004/A3/2008 by the second respondent is quashed. No costs."

4. The order passed by this Court mentioned supra squarely applies to the facts of this case. Therefore, following the aforesaid order passed by this Court, the order, which is impugned in this writ petition, is quashed. The writ petition is allowed as prayed for. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The District Elementary Educational Officer
Kancheepuram

2. The Assistant Elementary Educational Officer
Madurantakam

+1 cc to M/s.Al.Ganthimathi,advocate,sr.40563

+1 cc to Govt.Pleader,sr.40616.