

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Writ Appeal No.1324 of 2016
and CMP.No.17170 of 2016

The District Elementary Educational Officer
Ramanathapuram
Ramanathapuram District ..Appellant/ Respondent

Vs

V.Ganapathiammal ...Respondent/ Petitioner

Prayer : Writ Appeal filed against the order dated 24.03.2014
made in W.P.No.6781 of 2007.

For Appellant :: Mr.R.Prathapkumar, Govt.Advocate

For Respondent :: Mr.P.Radhapandian

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

Heard Mr.R.Prathap Kumar, learned Additional
Government Pleader appearing for the appellant/State and
Mr.R.Radhapandian, learned counsel appearing for the
respondent.

2. The respondent herein/writ petitioner filed
W.P.No.6781 of 2007, seeking a direction to the respondent
to promote her as Middle School Head Master against the
vacancies of the year 1997 and 1998 with reference to the
inclusion of her name in the Panel of Middle School Head
Masters for the years 1997 and 1998 and grant her all
consequential benefits.

3. The prayer sought for by the writ petitioner was
considered by the learned Single Judge and by order dated
24.03.2014, the learned Single Judge, in paragraph 5 of
the order, has held as under:-

"5. Hence, the Writ Petition is ordered, with direction to consider the petitioner's name for promotion to the post of Middle School Head Master from the date on which her juniors were promoted based on the promotional panel for the year 1997 with consequential service and monetary benefits. The whole exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs."

4. Aggrieved by the said order dated 24.03.2014, belatedly, the State has come on appeal.

5. The contentions raised on behalf of the State are that firstly, though the writ petitioner possess B.A., B.Ed., qualification, initially, she was appointed as a Physical Education Teacher and as such, she was not qualified as per Government Order in G.O.Ms.No.400, School Education Department dated 25.05.1995 for promotion to the post of Middle school Headmaster. Secondly, it was contended that since the interim stay granted by the Tamil Nadu Administrative Tribunal on 30.06.1997 made in O.A.No.4783 of 1997, no one was promoted during the year 1997 and 1998 and due to administrative reasons, promotion panel for the year 1999 was not prepared and accordingly, in terms of G.O.Ms.No.400, separate panel was prepared, wherein the respondent's name was left out. It is also contended that when the respondent herein/writ petitioner approached this court, the learned Single Judge directed the State to consider her name for promotion to the post of Middle School Head Master from the date on which her juniors were promoted based on the promotion panel for the year 1997 with consequential service and monetary benefits.

6. One of the grounds in the Writ Appeal depicts that the respondent/writ petitioner volunteered to be absorbed as Physical Education Teacher at the time, the Middle School was subsequently upgraded as High School, and still, she is working as Physical Education Teacher in the High School.

7. On an anxious consideration to the records and typed set of papers found herein, it is seen that as per Government Order in G.O.Ms.No.400, School Education Department dated 25.05.1995, B.Ed., Graduate teacher appointed in the Middle School, Tamil Pandit appointed in the Middle school, Primary School Headmaster qualified for B.Ed., or Tamil Pandit and if no qualified teachers in the above categories are available in the unit, the senior

most among persons working as Secondary Grade Teacher or in other cadres or trained teacher but qualified for B.Ed.,/Tamil Pandit drawing similar scales of pay of Secondary Grade Teachers may be considered for promotion as Middle School Headmaster. But, the petitioner does not fall in any one of the categories stated in G.O.Ms.No.400, dated 25.05.1995, to be promoted as Middle School Head Master. Mere possessing qualification of B.A., B.Ed., is not sufficient to be considered for promotion as Middle School Headmaster, since at the time of initial appointment, the petitioner was appointed as Physical Education Teacher, and not as B.Ed., or Tamil Pandit Graduate Teacher, however, thereafter, the writ petitioner, sought for such promotion at the cadre of higher level, in her favour. In any event, pay protection have to be extended to the respondent/writ petitioner, if not already extended, on par to the scale extended to his juniors, who were working in some other discipline.

8. With the above modification, the Writ Appeal is allowed in part. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

nvsri

To

The District Elementary Educational Officer
Ramanathapuram
Ramanathapuram District

1 cc to M/s. R. Radhapandian, Advocate, sr. 62053
1 cc to M/s. Government Pleader, Sr. 62482

W.A.No.1324 of 2016

CNR (CO)
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