

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.34392 of 2016

T.P.Narayana

.. Petitioner

Vs.

1. The Government of Tamil Nadu,
represented by Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.
2. The Director of Elementary Education,
Chennai-600 006.
3. The District Elementary Educational Officer,
Thiruvallur.
4. The Assistant Elementary Educational Officer,
Gummidipoondi,
Thiruvallur District. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to give retrospective effect to the promotion as Graduate Teacher (History) with effect from the date of promotion to the said post of his immediate junior as per Pro.Na.Ka.No.1939/A5/2010, dated 20.05.2010 of the third respondent and to grant all consequential service and monetary benefits with interest, all within a fixed time frame.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.N.Srinivasan, Addl.G.P.

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to give retrospective effect to the promotion as Graduate Teacher (History) with effect from the date of promotion to the said post of his immediate junior as per Pro.Na.Ka.No.1939/A5/2010, dated 20.05.2010 of the third respondent and to grant all consequential service and monetary benefits with interest, all within a fixed time frame.

2. It is the case of the petitioner that he had passed S.S.L.C. and Higher Secondary Course Examination in Telugu Medium in April 1990 and March 1992 respectively. He had further passed Diploma Course Examination in Teacher Education in February 1996 (Telugu Medium). He was initially appointed as Secondary Grade Teacher through District Employment Exchange, Hosur and was posted to Panchayat Union Elementary School, Donabanda, Hosur Union, Krishnagiri District and he joined duty on 11.08.1997. He had passed the second class language test in Tamil conducted by the Tamil Nadu Public Service Commission in December 1999. He was transferred to Tiruvallur District (Gummidipoondi Union) on 01.06.2004. Thereafter, the petitioner passed B.A. Degree (History) Examination in Telugu Medium in Sri Venkateswara Open University, Andhra Pradesh in April 2002. Thereafter, he passed B.Ed. Degree (History) Examination in December 2007 through Indira Gandhi National Open University, New Delhi.

3. It is further averred by the petitioner that by virtue of his qualification and passing in the second class language test in Tamil (full test) conducted by the TNPSC, he became fully qualified and eligible for promotion as Graduate Teacher (History) as per the provisions of the Special Rules governing the appointment to the post of Graduate Teachers in Tamil / Telugu medium or bi-lingual schools. By virtue of his eligibility, his name was included in the panel as on 01.01.2010 for promotion as Graduate Teacher (History) and was promoted as Graduate Teacher (History) by proceedings dated 20.05.2010 issued by the third respondent, but the said order of appointment was cancelled by proceedings dated 07.06.2010. Hence, the petitioner filed W.P.No.1416 of 2011 before this Court to quash the said proceedings, dated 07.06.2010 and to consequentially direct the respondents therein to allow him to continue to serve as Graduate Assistant (History) as ordered by the said proceedings dated 20.05.2010, with continuity of service with retrospective effect from the date of promotion of his immediate junior with all consequential benefits. The said Writ Petition was allowed by this Court.

4. It is the grievance of the petitioner that his promotion as Graduate Assistant has been given prospective effect and he is entitled for continuity of service with effect from 20.05.2010, as per initial order of appointment. Hence, in this regard, the petitioner has made a representation on 30.03.2015 to the fourth respondent to give retrospective effect of his promotion with effect from 20.05.2010 as Graduate Teacher (History) with consequential monetary benefits. The said representation was also forwarded by the fourth respondent to the third respondent, vide letter dated 09.04.2015. As no orders have been passed on the same, the petitioner has filed this Writ Petition for the relief stated supra.

5. When the Writ Petition is taken up for hearing, learned counsel for the petitioner submitted that earlier, in W.P.No.1416 of 2011, by order dated 29.06.2012, this Court allowed the said Writ Petition, thereby directing the respondents therein to allow the petitioner to continue to serve as Graduate Assistant as ordered in the above said proceedings dated 20.05.2010, with continuity of service with retrospective effect from the date of promotion of the immediate junior, with all consequential benefits. That being so, by proceedings dated 25.01.2015, the third respondent passed order by re-promoting the petitioner in the post of Graduate Assistant, but the same was given with prospective effect and as the same is not legally sustainable, the learned counsel for the petitioner prayed for retrospective effect of the promotion of the petitioner.

6. Heard the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

7. Considering the submissions made on either side and taking into consideration the facts and circumstances of the case, this Court directs the petitioner to submit a fresh representation seeking necessary relief, along with a copy of this order, to the respondents, within a period of two weeks from the date of receipt of a copy of this order, and on receipt of such representation, the respondents are directed to consider the said representation, conduct enquiry, afford an opportunity of personal hearing to the petitioner, pass appropriate orders, on merits and in accordance with law, and also in consonance with the said order of this Court, dated 29.06.2012 in W.P.No.1416 of 2011 and thereby dispose of the said representation within a period of four weeks from the date of receipt of such representation. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the respondents to decide the same while disposing of the said representation.

8. With the above observations and directions, this Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

CS

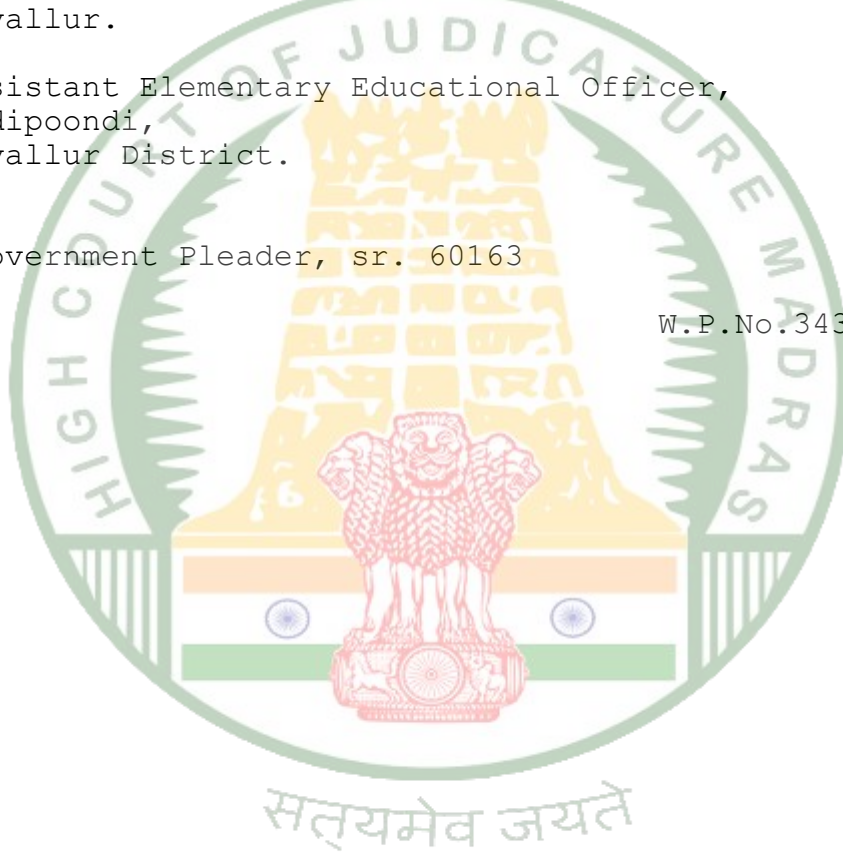
To

1. The Secretary to Government
Government of Tamil Nadu,
School Education Department,
Secretariat, Chennai-600 009.
2. The Director of Elementary Education,
Chennai-600 006.
3. The District Elementary Educational Officer,
Thiruvallur.
4. The Assistant Elementary Educational Officer,
Gummidipoondi,
Thiruvallur District.

1 cc to Government Pleader, sr. 60163

W.P.No.34392 of 2016

RJ (CO)
kk 21/11



WEB COPY