

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.35342 of 2016
and
W.M.P.No.30428 of 2016

V.Karunakaran

... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Adi Dravidar & Tribal Welfare Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Director of Adi Dravidar Welfare,
Chepauk, Chennai-600 005.

3.A.Ulaganathan,
Headmaster,
Government ADW High School,
Karaimedu,
Nagapattinam District.

4.R.Pangajam,
Headmaster,
GTR High School,
Su.Kilnachipattu,
Thiruvannamalai District.

5.P.Senthilnathan,
Headmaster,
Government ADW High School,
Athipallam, Krishnagiri District.

6.K.S.Palayadasan,
Headmaster,
Government ADW High School,
Melmanagar,
Thiruvallur District.

7.K.Thangapandi,
Headmaster,
Government ADW High School,
Munneerpallam,
Konamaduvu,
Salem 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 1 & 2 to include the name of the petitioner in the panel for promotion to the post of Higher Secondary School Headmaster for the year 2016 and consequently, to promote the petitioner to the post of Higher Secondary Headmaster on par with juniors with all consequential and other attendant benefits in the light of order of regularization from the date of initial appointment issued in G.O.Ms.No.60, Adi Dravidar & Tribal Welfare Department, dated 07.06.2010 and in furtherance to implementing orders passed in W.A.No.1578 of 2013, dated 27.03.2014.

For Petitioners : Mr.G.Sankaran

For respondents : Mr.K.Dhanajayan, Spl. GP (For R1 & R2)

ORDER

This writ petition has been filed by the petitioners, praying for issuance of a Writ of Mandamus, to direct the respondents 1 & 2 to include the name of the petitioner in the panel for promotion to the post of Higher Secondary School Headmaster for the year 2016 and consequently, to promote the petitioner to the post of Higher Secondary Headmaster on par with his juniors with all consequential and other attendant benefits in the light of the order of regularization from the date of initial appointment issued in G.O.Ms.No.60, Adi Dravidar & Tribal Welfare Department, dated 07.06.2010 and in furtherance to implementing orders passed by this Court in W.A.No.1578 of 2013, dated 27.03.2014.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows:-

2-1.On 06.11.1987, the petitioner was appointed as BT Assistant in Adi Dravidar Welfare (ADW) School on contract basis through Employment Exchange and he continued to work as such. While so, with a view to bring the BT Assistant Teachers working in ADW Schools on contract basis into regular establishment, the State Government has issued orders in G.O.(4D).No.7 AD & TW Department, dated 17.06.1991 to conduct a Special Test through Teachers Recruitment Board (TRB) for them. Subsequently, an amended Government Order was issued in Government Letter No.16279/ADW7/96, dated 09.06.1996, stating that the BT Assistant appointed on contract basis will be regularized based on the marks secured in the interview conducted by TRB and their services would be regularized from the date of initial appointment.

2-2. Accordingly, the test was conducted through TRB and orders were passed by the Department to regularize the service of 141 BT Assistants as per the proceedings dated 20.06.1996 and 47 BT Assistant as per proceedings dated 09.09.1996 and accordingly, 191 BT Assistant and Tamil Pandits were regularized. Further, the Government issued orders in G.O.Ms.No.60, AD & TW Department, dated 07.06.2010, regularizing the services of 171 BT Assistant/Tamil Pandits from the date of initial appointment, by fixing the seniority based on TRB ranking with fixation of salary on notional basis from the date of initial appointment with monetary benefits from the date of Government Order. The petitioner's service has been regularized along with others as per G.O.Ms.No.60, dated 07.06.2010, from the date of initial appointment with monetary benefits from the date of Government order.

2-3. Insofar as ADW Department is concerned, there is no seniority list being drawn in the post of High School Headmaster. The fact remains that the Department has not proceeded to draw State Level Seniority in the post of High School Headmaster, which is the feeder post for promotion to the post of Higher Secondary School Headmaster. Whereas the panel is being drawn every year for promotion to the post of Higher Secondary School Headmaster, in which number of persons who have been appointed subsequent to the petitioner's date of regularization included and further given promotion. Therefore, the juniors have been included in the panel for promotion to the post of Higher Secondary School Headmaster.

2-4. It is further stated by the petitioner that the fact remains that during the year 2009 i.e., prior to issuance of G.O.Ms.No.60, dated 07.06.2010, when the panel was prepared for promotion to the post of High School Headmaster as per the proceedings issued by the 2nd respondent in Na.Ka.No.A3/10923/08, dated 27.07.2009, it is directed that in the event of 192 contract basis BT Assistants being regularized based on the Government orders, the junior teachers now given promotion to the post of High School Headmaster would be reverted. Therefore, the interest of contract basis BT Assistant teachers was protected while drawing panel for promotion to the post of High School Headmaster in the year 2009, by stating that after issuance of Government order for regularization, if any teacher given promotion found to be junior, he/she would be reverted. Whereas after the issuance of G.O.Ms.No.60, dated 07.06.2010 for regularization of 174 BT Assistants from the date of initial appointment, in spite of the fact that number of them are senior to BT Assistant promoted as High School Headmaster in the year 2009, the juniors are not reverted to the post of BT Assistant to accommodate the seniors as directed in the proceedings of 2nd respondent dated 27.07.2009. Accordingly, the condition as stated in proceedings dated 27.07.2009 has not been implemented. Hence, several writ petitions were filed before this Court for fixation of seniority for the persons

brought into regular establishment as per G.O.Ms.No.60, dated 07.06.2010 with regularization of service from the date of initial appointment and to grant promotion to the post of High School Headmaster on par with juniors instead of reverting the juniors already promoted. The representation submitted by BT Assistants regularized as per G.O.Ms.No.60, dated 07.06.2010, directed to be considered by the respondents.

2-5.It is also stated by the petitioner that the Writ Petition filed by the BT Assistants regularized as per G.O.Ms.No.60, dated 07.06.2010 culminated into writ appeal in W.A.No.1572 of 2013, wherein orders were passed on 27.03.2014, directing the 2nd respondent to consider the representation and to pass appropriate orders on merits and in accordance with law, after hearing the persons who are likely to be affected within a stipulated time. Thereafter, a communication was issued by the 2nd respondent in Na.Ka.No.A3/1667/2014-1, dated 21.01.2014, stating that the BT Assistant teachers regularized as per G.O.Ms.No.60, dated 07.06.2010 are fixed with seniority as per TRB ranking and the same should be allowed to continue and it cannot be relaxed. The proceedings of the 2nd respondent dated 21.01.2014 proceeds on the premises that it is requested for alteration of seniority among BT Assistant teachers regularized as per G.O.Ms.No.60, dated 07.06.2010, without reference to their actual grievances, which relate to promotion to the post of High School Headmaster on par with juniors who are appointed subsequent to the date of their regularization. Hence, the petitioner and others have submitted representation to the respondents by referring to the actual grievances relating to promotion on par with juniors by taking into consideration of seniority from the date of their regularization as ordered in G.O.Ms.No.60, dated 07.06.2010 and in furtherance to the implementation of the orders of the 2nd respondent dated 27.07.2009. But, without reference to all these facts, the 2nd respondent has now issued proceedings in Na.Ka.No.A1/2887/2016-2, dated 20.09.2016, releasing the temporary panel for promotion to the post of Higher Secondary School Headmaster, which includes the names of number of juniors to the petitioner with reference to service seniority. The petitioner's service has been regularized from 06.09.1997 and having seniority reckoned from 06.11.1987 in the post of BT Assistant, the respondents 3 to 7 herein, who are juniors to the petitioner, have been included in the panel overlooking the petitioner. Hence, the petitioner has submitted an objection dated 30.09.2016 to the respondents against the panel issued by the 2nd respondent dated 20.09.2016. Since the objection submitted by the petitioner was not considered by the 2nd respondent, the petitioner has come forward with the present writ petition.

3.Heard both sides. Though the present writ petition was filed for a larger relief, at the time of arguing the matter, the learned counsel for the petitioner submitted

that if a direction is issued to the 2nd respondent to consider the objection dated 30.09.2016 given by the petitioner as against the panel for promotion to the post of Higher Secondary School Headmaster, that would suffice.

4. In view of the submission made by the learned counsel for the petitioner, without expressing any opinion on the merits of the claim made by the petitioner, this Court directs the 2nd respondent to consider the objection dated 30.09.2016 given by the petitioner as against the panel for promotion to the post of Higher Secondary School Headmaster, and to pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. Till such time, the respondents are directed to maintain status quo as on date.

With the above direction, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Asst. Registrar (CO)

/true copy/

Sub Asst. Registrar

ssv

To

1. The Secretary to Government,
State of Tamil Nadu,
Adi Dravidar & Tribal Welfare Department,
Secretariat, Fort St. George,
Chennai-600 009.

2. The Director of Adi Dravidar Welfare,
Chepauk, Chennai-600 005.

5 ccs to Mr. G. Sankaran, Advocate, Sr. 57748
1 cc Government Pleader, Sr. 57859

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MG (CO)
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