

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.41624 of 2016

S.Gomathi

... Petitioner

vs.

1. The Director,
Director of Elementary Education,
D.P.I. Complex,
Nungambakkam, Chennai-34.
2. The District Elementary Educational
Officer, O/o.District Education Department,
Nagapattinam.
3. The Assistant Educational Officer,
O/o.Assistant Education Officer,
Sembanarkovil,
Nagapattinam District.
4. The Secretary,
Government Aided Middle School,
Melaiyur,
Mayilladudurai Taluk,
Nagapattinam District-609 304. ... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents to dispose of the representation dated 23.09.2016 made by the petitioner claiming notional promotion.

For Petitioner : Mr.D.Baskar

For Respondents : Mr.V.Anandhamoorthy,
Additional Government Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The Writ Petition has been filed to issue a Writ of Mandamus, directing the respondents to dispose of the

representation dated 23.09.2016 made by the petitioner claiming notional promotion.

3. The case of the petitioner is that she joined as Higher Grade Teacher on 18.06.1969 in the 4th respondent school and promoted as Secondary Grade Teacher in January 1971. She has completed her B.Lit. in 1983 and B.Ed. in 1986 and also completed her M.A. in 1988. Further, from 31.10.1984 to 17.01.1985, she worked as Headmistress.

4. While so, though the petitioner is fully qualified to be appointed as Headmistress, one Mr.K.K.Subramanian was appointed as Headmaster. As per G.O.Ms.No.79, School Education Department, dated 14.06.2002 and G.O.Ms.No.174, School Education (G) Department, dated 15.09.2006, the 4th respondent ought to have promoted the petitioner as Headmistress and appointed her as Headmistress of the school. But the 4th respondent failed to do so. Apart from that, the 4th respondent has also failed to provide sanction of advance increment, payment of leave salary of Rs.4181/- and repayment of unauthorised amount collected. Further the requisition made by the petitioner to give extension of service till 31.05.2008 instead of retiring in the middle of the year ie. on 31.10.2007 was also rejected by the 4th respondent by order dated 31.10.2007. In this regard the petitioner filed W.P.No.34811 of 2007 and obtained an order of interim stay on 07.11.2007.

5. Anyhow, since the promotion of the petitioner was not considered by the 4th respondent, the petitioner made several representations to the respondents 1 to 3 and on 29.12.2011, the 2nd respondent replied that any claim shall be maintainable only if the 4th respondent had given promotion to him. Thereafter, the petitioner received the payment of leave salary of Rs.4181/- as per the order of the 3rd respondent with great efforts.

6. Now the grievance of the petitioner is that she is eligible for notional promotion as per G.O.Ms.No.239, School Education Department, dated 22.09.2007 and increment as per G.O.Ms.No.174, School Education Department, dated 15.09.2009. In this regard, the petitioner sent several representations to the 4th respondent, the last representation is dated 23.09.2016. But, no action has been taken on the same. Hence the present Writ Petition.

7. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

8. Considering the facts and circumstances of the matter, without going into the merits of the claim made by the petitioner, this Court directs the petitioner to give a copy of the representation seeking notional promotion dated 23.09.2016 along with a copy of this Order to the 4th respondent within a period of two weeks from the date of receipt of a copy of this Order and on receipt of the same, the 4th respondent is directed to consider and pass orders on the same on merits and in accordance with law, within a period of six weeks thereafter. It is made clear that this Court has not expressed any opinion regarding the claim of the petitioner. It is for the 4th respondent to decide the same on merits.

9. The Writ Petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1. The Director,
Director of Elementary Education,
D.P.I. Complex,
Nungambakkam, Chennai-34.
2. The District Elementary Educational
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4. The Secretary,
Government Aided Middle School,
Melaiyur,
Mayilladudurai Taluk,
Nagapattinam District-609 304.

+1 cc to Mr.D.Baskar,advocate,sr.69791
+1 cc to Govt.Pleader,sr.70029

ks(co)
krd 26/12

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