

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.5434 of 2016

R.Srinivasan

.. Petitioner

-vs-

1.The State of Tamil Nadu,
rep. by its Principal Secretary
to Government,
Education Department,
Chennai-9.

2.The Director of Elementary Education,
College Road, Chennai-6.

3.The District Elementary Education Officer,
Dharumapuri District.

4.The Assistant Elementary Education Officer,
Nallampalli, Dharumapuri District.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents to extend the benefit of the letter of the first respondent Government vide letter No.11018/Pa.Ka(1)/2015-4 dated 22.09.2015 and allow the petitioner to join in the promotional post of B.T.Assistant (science) in compliance of the order passed by the third respondent vide Na.Ka.No.1441/a4/2014 dated 18.06.2014 in the vacant place at Panchayat Union Middle School, Pukkampattiyan Kattuvallavur, Nalamballi Union, Dharmapuri District.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.A.Kumar,
Special Government Pleader

O R D E R

The writ petition has been filed by the petitioner seeking direction to the respondents to extend the benefit of the letter No.11018/Pa.Ka(1)/2015-4 dated 22.09.2015 issued by the first respondent and allow the petitioner to join in the promotional

post of B.T.Assistant (science) in compliance of the order passed by the third respondent vide Na.Ka.No.1441/a4/2014 dated 18.06.2014 in the vacant place at Panchayat Union Middle School, Pukkampattiyan Kattuvallavur, Nalamballi Union, Dharmapuri District.

2.The petitioner after passing his S.S.L.C. in the year 1996 and Higher Secondary in the year 1998, had undergone Diploma in Teacher Education during the year 1998-2000. After passing the said course, he registered the same in the District Employment Exchange. He was appointed as Secondary Grade Teacher on 23.03.2005, based on his employment seniority. He was posted at Panchayat Union Primary School, Thirumalvadi, Pallakodu Union. Thereafter, he was transferred to Panchayat Union Primary School, Chinnagahanahalli by an order dated 25.06.2006 by the third respondent. He is now working at P.U.Primary School, Avarankattur Village from 30.07.2012.

3.It is the case of the petitioner that after getting permission from the third respondent, he studied B.Lit. (Tamil) through correspondence course at Annamalai University and he passed the same during May 2007. Thereafter, he joined 1st year B.Sc. (Botany) through correspondence course at Periyar University during 2008-09. He wrote five theory papers in November 2009. Due to postponement of practical examination, he did not write the practical in November 2009 and the same was conducted in May 2010. Subsequently, he joined B.Ed. in Indira Gandhi Open University during 2010-11. He passed the same in December 2011. Thereafter, he rejoined 2nd year B.Sc. in 2011-12 and paid the second year fee with penalty on 06.02.2012 and he paid 3rd year fee on 10.07.2012. Accordingly, he completed his B.Sc. course in July 2013. The said qualifications were made endorsed in his service records by the fourth respondent. While so, the fourth respondent had prepared the panel for promotion to the post of B.T. Assistant as on 01.01.2014 and his name was figured in Serial No.5. The respondents 3 and 4 also conducted promotion counseling for the post of B.T. Assistant (Science) on 18.06.2014. Pursuant to counseling and based on seniority, he was given the order of promotion by the third respondent vide Na.Ka.No.1441/A4/2014 dated 18.06.2014 and posted him at P.U.Middle School, Omalnatham, Nallampalli Union. However, the fourth respondent had not relieved the petitioner from service to enable him to join in the promotional post of B.T. Assistant. On enquiry, the fourth respondent informed that the petitioner studied B.Sc. and B.Ed. during the same academic year. Therefore, the petitioner made his representation dated 31.07.2014 to the first respondent by furnishing the copies of B.Sc. and B.Ed. certificates. Pursuant to his representation to the second respondent, the fourth respondent made certificate verification on 20.08.2014, 23.08.2014 and 26.08.2014 respectively. In spite of certificate verification, he was not

allowed to join the promotional post. Therefore, he made a representation dated 29.08.2014 to the third respondent requesting for promotion. Despite he made several representations, there was no response from the respondents. Therefore, the petitioner is before this Court.

4.Learned counsel appearing for the petitioner would submit that since the petitioner pursued B.Sc. first year in the year 2008-09, after suspending the same, he joined the B.Ed. course with prior permission and only after completing the B.Ed. course, he rejoined B.Sc. second year and completed the same in the year 2013. He would further submit that when the petitioner after getting prior permission, pursued his studies, the promotional post cannot be denied to the petitioner on the ground that the petitioner pursued both B.Sc. and B.Ed. simultaneously by rejection order Na.Ka.543/m1/2015 dated 23.11.2015 passed by the fourth respondent and the said rejection order is totally misconceived.

5.This Court is not able to accept the contention made by the learned counsel for the petitioner. The reason is that when the admitted case of the petitioner is that he pursued his first year B.Sc. through correspondence course during 2008-09 and after writing the five theory papers in November 2009, due to postponement of practical examination, he did not write practical examination in November 2009 and after suspending his B.Sc. course, he joined B.Ed. course during 2010-11 and after completing B.Ed. course, he once again joined B.Sc. second year, the respondents are right in not granting the promotional post as sought for by the petitioner, as he pursued the B.Sc. course as well as the B.Ed. course simultaneously. Therefore, this Court is not inclined to grant the relief sought for by the petitioner. Hence this petition is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs.
vga

s/d-

सत्यमेव जयते
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1.The State of Tamil Nadu,
rep. by its Principal Secretary
to Government,
Education Department,
Chennai-9.

2.The Director of Elementary Education,
College Road, Chennai-6.

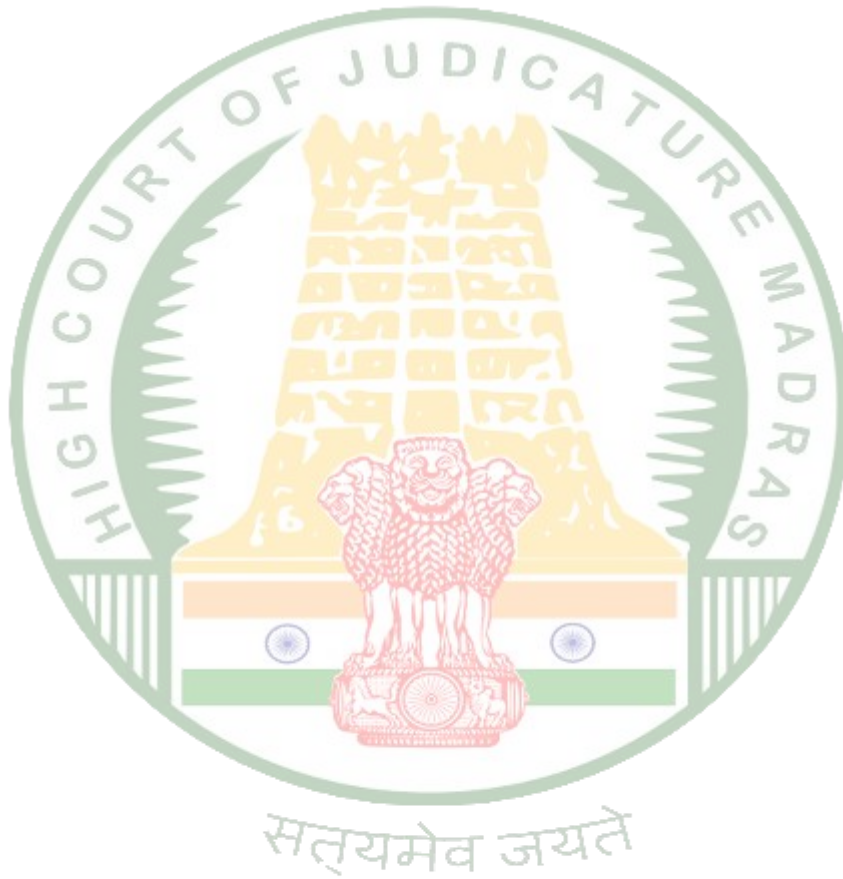
3.The District Elementary Education Officer,
Dharumapuri District.

4.The Assistant Elementary Education Officer,
Nallampalli, Dharumapuri District.

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