



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2016

C O R A M

WEB COPY

THE HONOURABLE DR.JUSTICE S.VIMALA

Writ Petition (MD) No.17441 of 2016

D.Mariya Doss

.. Petitioner

Vs.

1.The Director of Elementary Education,
Office of Director of Elementary Education,
D.P.I. Campus, College Road,
Chennai 600 006.

2.The District Elementary Educational Officer,
Madurai District.

3.The Assistant Elementary Educational Officer,
T.Vadipatti, Madurai District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 2nd respondent to pass an order reverting the petitioner from the post of Middle School Headmaster to the post of Primary School Headmaster by considering the representations dated 28.12.2015 and 16.08.2016 in the light of the Rule 47 of the Tamil Nadu State and Subordinate Service Rules.

For petitioner

... Mr.D.Sasikumar

For Respondents

... Mrs.S.Bharathi

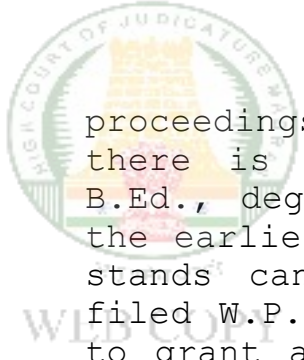
Government Advocate

O R D E R

Under Rule 47 of the Tamil Nadu State and Subordinate Service Rules, the petitioner claims reversion in the representations, dated 28.12.2015 and 16.08.2016.

2.Heard the learned counsel for the petitioner. Mrs.S.Bharathi, learned Government Advocate, takes notice for the respondents.

3.The case of the petitioner is that he was appointed as Secondary Grade Teacher. Thereafter, he was promoted to the post of Middle School Headmaster and that for acquiring M.A., and B.Ed., degrees, the petitioner was given with incentive increment by the third respondent. Thereafter, the third respondent by his



proceedings dated 13.11.2015, informed the petitioner that since there is an audit objection to grant incentive for acquiring B.Ed., degree, after being promoted as Middle School Headmaster, the earlier order granting incentives for acquiring B.Ed., degree stands cancelled. Aggrieved over the same, the petitioner has filed W.P.(MD)No.21809 of 2015, in which, this Court was pleased to grant an order of interim stay and that the writ petition is still pending. Since the petitioner is going to retire in few months, he has given representations to the respondents requesting them to revert back from the post of Middle School Headmaster to the post of Primary School Headmaster by relying Rule 47 of the Tamil Nadu State and Subordinate Service Rules, which reads as under:-

"Relinquishment of rights of members:- (1) Any person may in writing, relinquish any right or privilege to which he may be entitled under these rules or the Special Rules if, in the opinion of the appointing authority, such relinquishment is not opposed to public interest and nothing contained in these rules or the Special Rules shall be deemed to require the recognition of any right or privilege to the extent to which it has been so relinquished.

(2) Relinquishment of a right or privilege for a temporary period shall be accepted if it is made for a period of not less than three years subject to the condition that after the expiry of the said period, the claim of the right or privilege relinquished will be with reference to the state of affairs that exist on the date of expiry of period of relinquishment and without restoration of original seniority. If relinquishment of right or privilege is made permanently and is accepted subsequent claim of the relinquished rights or privileges shall not be entertained."

4. It is agreeable by the learned Government Advocate for the respondents to consider and pass orders on the representations of the petitioner on merits and in accordance with law.

5. In view of the above, the second respondent is directed to consider the representations of the petitioner, dated 28.12.2015 and 16.08.2016 and pass orders within a period of four weeks from the date of receipt of a copy of this order.

6. With the above directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (Writs)

/True copy/



To

1.The Director of Elementary Education,
Office of Director of Elementary Education,
D.P.I. Campus, College Road,
Chennai 600 006.

2.The District Elementary Educational Officer,
Madurai District.

3.The Assistant Elementary Educational Officer,
T.Vadipatti, Madurai District.

+1cc to M/s.D.Sasikumar, Advocate SR.No.52747
+1cc to special Government Pleader SR.No.52862

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