



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.09.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.18538 of 2016

D.Suresh Kumar

... Petitioner

-vs-

1. The District Elementary Educational Officer,
Virudhunagar District.

2. The Additional/Assistant Elementary
Educational Officer,
Sivakasi Union,
Sivakasi, Viruchunagar District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to consider the representation of the petitioner dated 3.8.2014 and 25.7.2016 for posting the petitioner as Secondary Grade Teacher in the vacancies available in the Panchayat Union Middle school, Mathia Senai, Sivakasi Union Panchayat Union Middle School at Sengamla Nachiyarpuram and the Panchayat Union Middle School at Pethulupatti as per Clause-3 of promotion proceedings of the 1st respondent in Na.Ka.No. 1985/AA4/2014 1.11.2014.

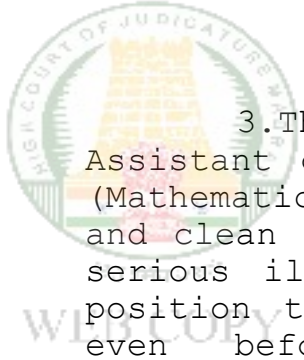
For Petitioner : Mr.C.Christopher

For Respondents : Mrs.S.Bharathi
Government Advocate

O R D E R

This writ petition has been filed for the issuance of a writ of mandamus, directing the respondents to consider the representations of the petitioner dated 03.08.2014 and 25.07.2016, requesting to revert him to the post of Secondary Grade Assistant from the promoted post of B.T.Assistant.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate who takes notice for the respondents. By consent the writ petition itself is taken up for final disposal at the admission stage.



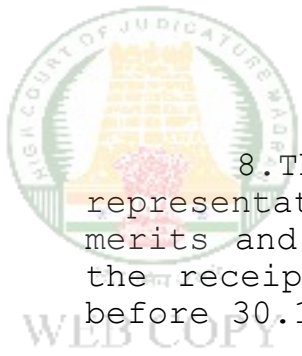
3. The petitioner was initially appointed as a Secondary Grade Assistant on 14.08.1995 and subsequently promoted as B.T. Assistant (Mathematics) on 03.11.2014. He has put in 21 years of continuous and clean service in the career. Due to family circumstances, i.e., serious illness of his aged mother, the petitioner is not in a position to accept the promotion as B.T. Assistant and therefore, even before promotion, the petitioner has submitted a representation, requesting not to promote him to the post of B.T. Assistant. Despite requisition given, the petitioner was promoted as B.T. Assistant. As per Clause-3 of the proceedings of the first respondent dated 01.11.2014, there is a provision for relinquishment of promotion by the promotees on their willingness either temporary or on permanent basis, due to their family circumstances or other indispensable reasons and seek their posting to the next lower grade in the existing vacancies.

4. The Assistant Elementary Educational Officer, Sivakasi by the proceedings dated 28.07.2016 sent a recommendation letter to the first respondent to consider the grievance of the petitioner. There are vacancies caused and available for posting in the post of Secondary Grade Teacher in the Panchayat Union Middle School, Mathia Senai, Sivakasi Union, Panchayath Union Middle School at Sengamala Nachiyarpuram and Panchayat Union Middle School at Pethulupatti.

5. Giving all these details, the petitioner has sought for a writ of mandamus, directing the respondents herein to consider the representations of the petitioner dated 03.08.2014 and 25.07.2016 for posting the petitioner as Secondary Grade Assistant in the vacancies available in the above mentioned schools.

6. The petitioner has been very vigilant in informing the concerned authorities that he is not in a position to accept the promotion because of his family circumstances and he must not be promoted. But, this request did not receive the attention of the authorities. The petitioner has been promoted and immediately after promotion, he sent a representation to the respondents asking for reversion to the original post, explaining the circumstances, in which he is placed. The authorities concerned must have realised and understood the pain with which one has to relinquish their right to get promotion. The petitioner was in a compelling circumstance to relinquish his promotion and to ask for reversion. The authority should have considered his request and pass orders immediately. Even at this stage, his request has not been considered. At last, the Assistant Elementary Educational Officer was successful enough to forward the representation to the first respondent, seeking to consider the grievance of the petitioner. The first respondent has turned deaf ear to the request of the petitioner. Under such circumstances, this Writ petition has been filed.

7. The materials produced before the Court only show that there is no application of mind at any stage, whenever the request was made by the petitioner.



8. Therefore, the first respondent is directed to consider the representation of the petitioner dated 25.07.2016 and pass orders on merits and in accordance with law within a period of one week from the receipt of a copy of this order and report compliance on or before 30.10.2016.

9. The Writ Petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The District Elementary Educational Officer,
Virudhunagar District.
2. The Additional/Assistant Elementary
Educational Officer,
Sivakasi Union,
Sivakasi, Virudhunagar District.

+ 1 CC TO Mr. C. CHRISTOPHER, ADVOCATE IN SR No. 57053/2016

MJ/AR

TE/GSV-PM/SAR-III : 18/10/2016 : 3P/4C (IT)

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29.09.2016