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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.20949 of 2011

and

M.P.No. 1 of 2012

1.V.S.Subramanian
2.S.Senthilvelan
3.M.Jagir Abbas
4.K.Arukkani
5.V.Thiagarajan
6.S.Madhusoodhanan
7.K.S.Valarmathi
8.J.Viswanathan
9.N.M.Easwaran
10.G.M.Ajjan

... Petitioners

Vs.

1.Government of Tamilnadu
Rep by Secretary to Government
School Education Department
Secertariat, Chennai - 600 009.

2.The Director of Elementary Education
Chennai - 600 006.

3.The Joint Director of School Education (Personnel)
Chennai - 600 006.

4.The Teachers' Recruitment Board
Rep by its Member Secretary
E.V.K.Sampath Maligai
College Road, Chennai - 600 006.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to issue the panel for promotion to the post of PG Assistant only in the order of selection and Rank assigned to them by the 4th respondent for each and every year /batch of selection.

For Petitioners : Mr.M.Ravi

For Respondents : Mr.V.Jayaprakashnarayanan
Special Government Pleader



O R D E R

The relief sought for in this writ petition is for a direction to the respondents to issue the panel for promotion to the post of PG Assistant only in the order of selection and Rank assigned to them by the 4th respondent for each and every year / batch of selection.

2.The learned counsel appearing on behalf of the writ petitioners states that the writ petitioners were recruited through the Teachers Recruitment Board initially, to work on consolidated pay during the year 2003-2004 and subsequently, they were appointed on regular time-scale of pay with effect from 1.6.2006 and all the petitioners were placed on probations. The grievance of the petitioners is that promotion to the post of PG.Assistant is not made in accordance with their seniority.

3.The petitioners rest their claim on the ground that seniority has not been reckoned from the date of initial appointment and therefore, they are deprived of their promotion to the post of P.G. Assistant as per their original seniority. Further, the petitioners state that the Teachers Recruitment Board allotted the rank seniority and the same is extracted in paragraph 5 of the affidavit. It is as follows:-

S.No	Name	Rank Number
1.	V.S.Subramanian	49/2003-04
2.	S.Senthivelan	75/2003-04
3.	M.Jngir Abbas	36/2003-04
4.	K.Arukkani	56/2003-04
5.	V.Thiagarajan	39/2003-04
6.	S.Madhusoodhanan	15/2003-04
7.	K.S.Valarmathy	1/2003-04
8.	V.Viswanathan	58/2003-04
9.	N.M.Easwaran	66/2003-04
10.	G.M.Ajjan	21/2003-04

4.The learned counsel for the petitioners states that seniority allotted by the Teachers Recruitment Board alone has to be followed for promotion to the post of P.G.Assistant. Contrarily the respondents have violated the seniority and granted promotion.

5.The learned Special Government Pleader opposed the contention of the writ petitioners by stating that no doubt the



writ petitioners were recruited through Teachers Recruitment Board [TRB] and their services were confirmed in the department of Elementary Education. However, the post of P.G.Assistant comes under the School Education Department and the case of the writ petitioners shall be considered in accordance with their respective seniority. The seniority assigned by the School Education Department only is to be considered for the purpose of including the name of the persons in the panel of promotion.

6.In the case of the writ petitioners, they were initially appointed in the Department of Elementary Education. While getting transferred to the department of School Education, they have given request and the transfer was effected based on such request.

7.In this regard, the learned Special Government Pleader referred the proceedings of the Joint Director, dated 25.9.2009, which is enclosed in page no.15 to 23 of the typed set of papers filed along with the writ petitions.

8.The above said orders are clear that the petitioners were transferred from one union to another union at their own request. The request transfer was ordered on certain conditions. The first condition is that the Teacher should have completed the period of probation. The second condition is that seniority will be fixed from the date of joining in the School Education Department. Third condition is that the name of such tranferees would be placed last, below the name of the B.T.Assistant, who is already working in the School Education Department.

9.Accepting these conditions, they will forgo their seniority. the writ petitioners have joined in the Department of School Education at their own request. The writ petitioners cannot now claim that their promotion to the post of P.G.Assistant has to be considered based on their original seniority in the initial appointment in the Department of Elementary School Education.

10.This Court is of the opinion that arguments advanced by the learned counsel for the petitioners in this regard deserves no consideration. An employee who has submitted a request application for transfer and given consent to forgo his/her seniority, cannot thereafter seek promotion based on their original seniority. The order of transfer was issued on 25.09.2009, at the request of the writ petitioners. However, after accepting the transfer, the petitioners cannot claim any seniority based on their initial date of appointment. The writ petitioners now cannot go back and claim their original seniority, and the order of transfer and related conditions are



binding on the writ petitioners and therefore, the writ petition deserves no further consideration at all. Accordingly, the writ petition stands dismissed. However there is no order as to costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government
School Education Department
Secertariat, Chennai - 600 009.
- 2.The Director of Elementary Education
Chennai - 600 006.
- 3.The Joint Director of School Education (Personnel)
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E.V.K.Sampath Maligai,
College Road, Chennai - 600 006.

+1cc to Mr.M.Ravi, Advocate SR.No.87637
+2cc to Government Pleader SR.No.88102, 88094

W.P.No.20949 of 2011

GN(29/01/2018)