

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Writ Petition Nos.21121 to 21127 of 2013
and
M.P.Nos.1 and 2 of 2013

G.Pushpa Rani ... Petitioner in WP.Nos.21121, 21122,
21127/13
R.Jeremiah Jeyshanthi ... Petitioner in WP.Nos.21123, 21124
& 21126/13
A.Ulaganathan ... Petitioner in WP.No.21125/13.

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St., George,
Chennai 600 009.
- 2.The Director of Elementary Education,
DPI Complex, Chennai 600 006.
- 3.The District Elementary Education Officer,
Kancheepuram District, Kancheepuram.
...Respondents 1 to 3 in all the WPs
- 4.Seethalakshmi,
Graduate Teacher (English),
Panchayat Union Middle School,
Thiruneermalai,
Chennai 600 044. ...4th Respondent in WP.Nos.21121,
21123/13

Suchithra ...4th Respondent in WP.21122/13

Graduate Teacher (English)
Panchayat Union Middle School,
Mottaikaranchaavadi,
Chennai-160 ...R4 in WP.Nos.21122 &21126/13

Seethalakshmi, Graduate Teacher (English)
Panchayat Union Middle School,
Thiruneermmalai, Chennai-143..R4 in WP.21123/13

Indira, Graduate Teacher (English)
Panchayat Union Middle School,
Tirisoolam, Chennai-143 .. R4 in WP.Nos.21124 & 21127/13

Maran, Graduate Teacher (Maths)
Panchayat Union Middle School,
Jalandianpettai, Chennai-100 ..R4 in WP.21125/13

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order, dated 04.07.2013, 16.7.13, 04.7.13, 22.7.13, 16.7.13 and 22.7.13 respectively passed by the third respondent herein in Na.Ka.No.1680/A5/2013 and quash the same and consequently direct the respondents herein to promote the petitioner as Graduate Teacher (English) to the vacant post of Graduate Teacher, Chitlapakkam block.

For Petitioner : Mr.Silambanan, S.C., for
M/s.Profexs Associates

For Respondents1-3 : Mr.A.Zakir Hussain,
Government Advocate.

For 4th Respondent : No appearance

COMMON ORDER

All the petitioners in these writ petitions are Secondary Grade Teachers working at Panchayat Union Primary Schools, Anakaputhur, Chitlapakkam and Perungudi respectively which come under the Chitlapakkam block, Kancheepuram educational district. For the purpose of maintaining inter se seniority for the Secondary Grade Teachers, the Chitlapakkam unit is considered to be one unit for the purpose of promotion. The seniority is also maintained at the block level for the purpose of promotion and other service benefits. All the petitioners are placed in the senior most level in the seniority list and are due for promotion. The third respondent herein had passed orders on different dates transferring the Graduate Teachers from other Panchayat Union Middle Schools to the existing vacancy within the Chitlapakkam block which are impugned in the present writ petitions.

2.The grievance of the petitioners is that the third respondent ought to have promoted the petitioners from the panel of the eligible Secondary Grade Teachers to the post of Graduate Teachers instead of transferring Graduate Teachers from the other block.

3.Mr.A.Zakir Hussain, learned Government Advocate for the respondents submitted that all the petitioners who are working as Secondary Grade Assistant Teachers are placed at the panel for promotion to the post of B.T.Assistants. Since the writ petition is pending before this Court for awarding promotion to the double degree and 10+2+3 holders, no promotion is effected till date. It is further submitted that

whenever the vacancy arose, the third respondent had taken the welfare of the students studying in the middle schools into account and had effected the transfer from other block on administrative grounds. He would further submit that the transfer orders are a privilege and administrative procedure and therefore, the petitioners are not entitled to challenge the same.

4.As submitted by the learned Senior Counsel for the petitioners, the Chitlapakkam block is treated as one unit for the purpose of maintaining seniority for the Secondary Grade Teachers as well as for preparation of panel for promotion as Graduate Teachers. All the petitioners herein, being placed in the top most seniority in the panel, ought to have been promoted whenever a vacancy arose at Chitlapakkam block. I find force in the submission made by the learned Senior Counsel that whenever vacancy of Graduate Teachers arises in the Chitlapakkam block, the respondents are bound to exhaust the panel of eligible Secondary Grade Teachers from their own block and only then, they can opt for a transfer of teachers from other block to this block.

5.With regard to the submission of the learned Government Advocate that the writ petition for awarding promotion to the double degree and 10+2+3 holders is pending, cannot be a ground to deny promotion to the petitioners. Needless to point out that when the vacancy arose the respondents could have considered the candidature of the petitioners, from the panel for promotion to the post, subject to the outcome of the pending writ petition, instead of opting to transfer the teachers from the other block. If this conduct is encouraged, the teachers like the petitioners would get stagnated in the same post for many years and there would be no avenue to them for promotion at all.

6.Under such circumstances, in view of the above findings, the impugned orders dated 04.07.2013, 16.07.2013, 04.07.2013, 22.07.2013, 16.07.2013, 16.07.2013 and 22.07.2013 respectively are quashed. Consequently, the respondents are directed to promote the petitioners as Graduate Assistant Teachers in English and Maths in Chitlapakkam block within a period of eight weeks from the date of receipt of a copy of this order.

8.With the above observation, the writ petitions are allowed. No costs. Consequently, M.P.Nos.1 and 2 of 2013 are closed.

Sd/-
Asst.Registrar (CCC)

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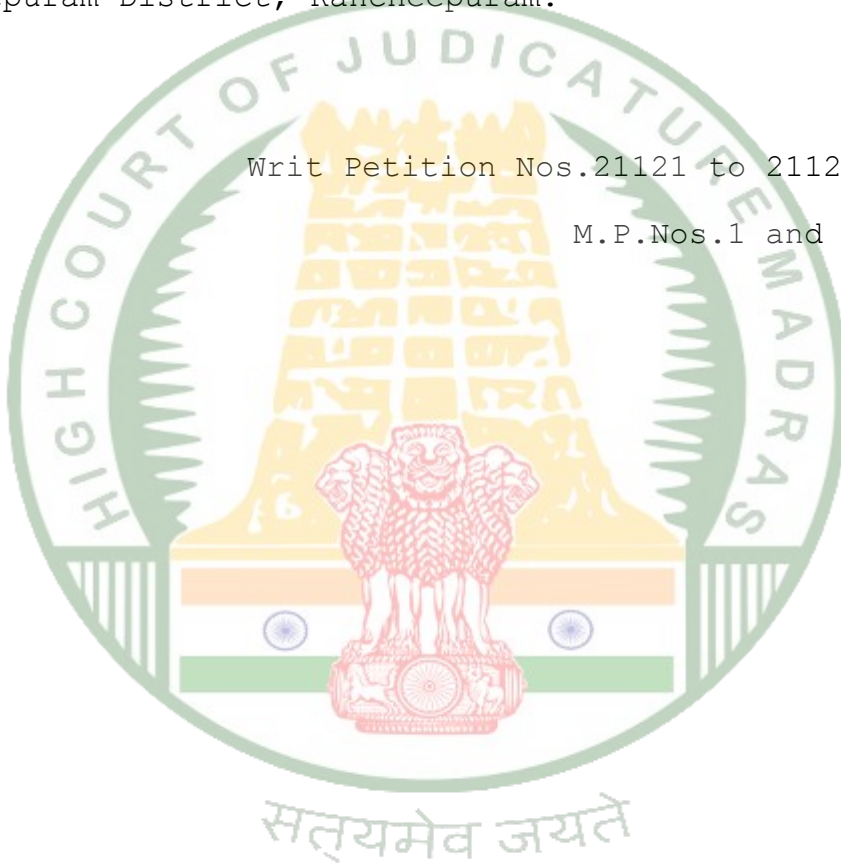
Sub Asst. Registrar

To

- 1.The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St., George,
Chennai 600 009.
- 2.The Director of Elementary Education,
DPI Complex, Chennai 600 006.
- 3.The District Elementary Education Officer,
Kancheepuram District, Kancheepuram.

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