

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 28083 of 2013
and
M.P. Nos. 1 to 3 of 2013
and
W.M.P No.25622 of 2016

M. Subramanian ... Petitioner

Vs.

1. The Director of School Education
College Road
Chennai- 600 006.
2. The Chief Educational Officer
Namakkal.
3. The District Educational Officer
Namakkal.
4. Girls Higher Secondary School
P. Velur, rep. By its Secretary
Namakkal.
5. Mrs. G. Lakshmi .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 2nd respondent in Mu.Mu.No.9969/A1/2012 dated 22.02.2013 and quash the same and consequently direct the respondents 2 to 4 to promote the petitioner to the post of P.G. Tamil Teacher in the Girls Higher Secondary School, P.Velur , Namakkal District and pass such further orders.

For Petitioner : Mr. K. Kannan

For Respondents : Mr. S. Navaneethan
Addl.Government Pleader for R1 to R3

Mr. G. Anbumani for R4

Mr. C.A. Diwakar for R5

O R D E R

The petitioner has filed the present writ petition, seeking to quash the impugned proceedings of the 2nd respondent in Mu.Mu.No.9969/A1/2012 dated 22.02.2013 and consequently direct the respondents 2 to 4 to promote him to the post of P.G. Tamil Teacher in the Girls Higher Secondary School, P.Velur , Namakkal District.

2. Learned counsel for the petitioner submitted that the petitioner was appointed as a Maths Teacher (UG) in Girls Higher Secondary School, P. Velur, Namakkal District on 09.07.2004. At the time of joining the school, the petitioner possessed M.Sc. (Maths) and B.Ed as his qualification. After two years, in the year 2006, the petitioner's services were regularised. The petitioner completed his M.A (Tamil) during the year 2011. As on the date of filing this writ petition, the petitioner has put in 9 years of service. Whiles, one Saroja, who was working as PG (Tamil) Teacher in the respondent school retired on 31.05.2012. The petitioner being a qualified Tamil Teacher, possessing requisite qualification and seniority, submitted a representation on 30.11.2012 to the Director of School Education, namely, the 1st respondent, requesting to consider him for promotion to the post of PG Tamil Teacher in the Girls Higher Secondary School, P. Velur Namakkal District. The 1st respondent addressed a letter to the 4th respondent, stating to consider the representation of the petitioner, as per the provisions of Rule 15(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 while filling up the post of Post Graduate Tamil Teacher in the school. According to the petitioner, in the seniority list drawn by the 4th respondent School, his M.A. (Tamil) qualification has not been mentioned. Therefore, when the 4th respondent School sought for permission from the 2nd respondent to fill up the vacancy, the 2nd respondent vide the impugned order dated 22.02.2013 granted permission to promote G. Lakshmi, the 5th respondent, to the post of PG Tamil Teacher. Based on the proceedings dated 22.02.2013, the 4th respondent has appointed the 5th respondent in the said post, without considering the petitioner. It is further submitted that though the petitioner is working as Maths Teacher in the respondent School, having possessed M.A Tamil Post Graduation, he is qualified for promotion as cross major, which has been adopted to similarly placed faculties in the respondent School. Since the petitioner has not been considered for promotion, inspite of his representations, the petitioner is before this Court, seeking the above said prayer.

3. According to the petitioner, the District Educational Officer, Namakkal, the 3rd respondent herein, has intimated the 1st respondent that remarks have been called for as to why the petitioner's qualification M.A (Tamil) has been omitted to be mentioned while drawing the seniority list and to scrutinize the petitioner's application for promotion to the post of PG Tamil Teacher in the respondent school, in accordance with the relevant rules. The said letter has not been considered by the respondent School. In the above circumstances, the impugned proceedings is liable to be set aside, he pleaded.

4. On the contrary, learned counsel for the 4th respondent submitted that as stated in the counter affidavit, in accordance with the Tamil Nadu Recognised Private Schools (Regulations) Act, 1973 and the Tamil Nadu Recognised Private Schools (Regulations) Rules, 1974, the School Committee found that the 5th respondent, namely, G.Lakshmi, is a B.T Assistant (Tamil) holding the degrees of B.Lit. (Tamil) and M.A. (Tamil). She has produced good results in X Standard public examination for three years i.e., 2009 to 2012. Further, 5th respondent was teaching Tamil subject for the X standard students for several years. She had also studied Tamil as a main subject, during both, Under Graduation and Post Graduation. Therefore, the School Committee after assessing the qualifications, merits and abilities of all the four eligible teachers, including the petitioner, decided to promote the 5th respondent to be posted as PG Tamil Teacher. Based on the recommendations of the School Committee, 5th respondent was promoted as PG Teacher in Tamil w.e.f. 08.03.2013. Hence, it is clear that the 5th respondent has been promoted only on the basis of merits and in accordance with rules. It is further stated that the petitioner's qualification of B.Sc. (Maths), M.Sc. (Maths), M.A (Tamil) with B.Ed., were also duly considered by the School Committee, along with the other eligible teachers. Therefore, the contention of the petitioner cannot be countenanced.

5. According to the counter affidavit filed by the 2nd respondent, the petitioner possess M.Sc (Maths) and only after getting employment, he acquired M.A. (Tamil) degree, after obtaining permission from his employer. It is true that the petitioner acquired PG degree in Tamil and the petitioner's case would have been considered for the post of PG Tamil Teacher, in the absence of any competent person. In fact, the 4th respondent has recommended the names of the petitioner and the 5th respondent along with 2 others, to be qualified teachers to be posted as PG Tamil Teacher, to the Selection Committee. Therefore, the 4th respondent has appointed the 5th respondent, in accordance with the rules as well as the Government orders. Learned Additional Government Pleader further submitted that in G.O.Ms. No. 424 Education, Science and Technology Department

dated 05.06.1995, the Government had ordered that if more than one candidate possess the same qualification, preference shall be given to those who have studied the same subject in which he or she obtained the Post Graduate Degree, as main subject. It is an admitted fact that the 5th respondent has completed both the degrees on the same subject and has also taken Tamil as a main subject in the schooling. The petitioner has handled only Maths subject in the respondent school

Therefore, the 5th respondent is the eligible candidate to be promoted as P.G. Tamil Teacher, for handling Tamil subject, for Classes 11 and 12. Hence, there is no case made out to interfere with the order passed by the respondent School.

6. Heard learned counsel for the petitioner, learned Additional Government Pleader and the learned counsel for the respondents and perused the material available on record.

7. It is an admitted fact that the petitioner did his basic degree in Maths viz. M.Sc., (Maths) along with B.Ed. and after joining the respondent School, the petitioner had passed M.A. (Tamil), after getting permission from the employer. Rule 15(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 reads as follows:

"15 (4) (i) Promotion to the category of teachers and other persons shall be made on the basis of school seniority.

(ii) Appointments to the various categories of teachers shall be made by the following methods:

(a) Promotion from among the Qualified teachers in that school in the next lower grade on identical scales of pay having due regard to the subject and language requirement. If qualified and suitable candidates are not available in that grade, candidates in the further next lower grade shall be considered.

(b) while filling the vacancies in the cadre of P.G.Teachers, candidates who have obtained a Master's Degree and Bachelor's Degree in the same subject or language as main shall be given first preference. "

8. The vacancy was caused due to the retirement of one M.Saroja, for the post of PG Tamil Teacher. The 4th respondent School has considered the eligible persons and had promoted the 5th respondent to the said post on the basis of the qualification possessed by her, particularly on the ground that the 5th respondent had undergone her Under Graduation and Post Graduation on the same subject. Further, 5th respondent had handled Tamil subjects in the High School. But the petitioner

possessed M.Sc., (Maths) along with B.Ed. and thereafter only he acquired a degree in M.A. (Tamil). At present, the petitioner is handling only Maths subject in the respondent School. Therefore, as per G.O.Ms. No. 424 Education, Science and Technology Department dated 05.06.1995, if more than one candidate possess the same qualification, preference shall be given to those who have studied the same subject in which he or she obtained the Post Graduate Degree, as main subject. In this case, 5th respondent has been promoted in accordance with Rules. Therefore, the contention of the petitioner is rejected and no case has been made out by the petitioner to interfere with the impugned order passed by the 2nd respondent and accordingly, the writ petition deserves to be dismissed.

10. In view of the above, the Writ Petition is dismissed. Consequently, the connected M.Ps are closed. No order as to costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1. The Director of School Education
College Road
Chennai- 600 006.
2. The Chief Educational Officer
Namakkal.
3. The District Educational Officer
Namakkal.
4. The Secretary
Girls Higher Secondary School
P. Velur,
Namakkal.

1cc to Mr. K. Kannan, Advocate Sr.9907

+1cc to Mr.G. Anbumani, Advocate Sr. 9737

+1cc to mr.C.a. Diwakar, Advocate Sr. 9740

+1cc to the Government Pleader Sr. 10205

W.P. No. 28083 of 2013

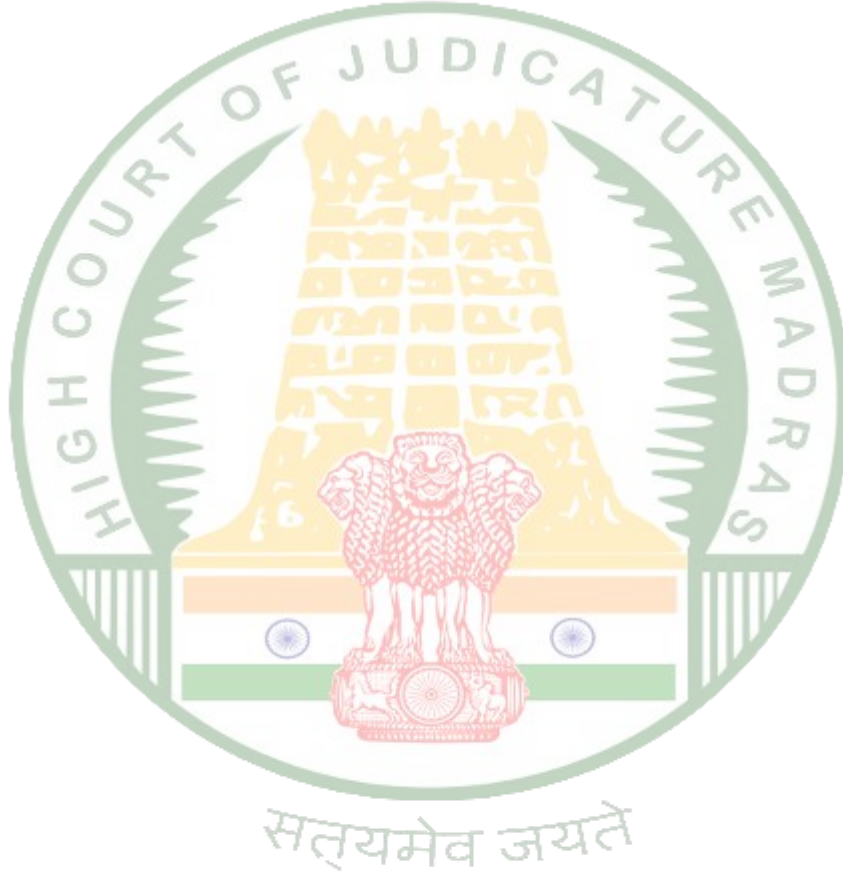
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GJII(CO)
VR(21/4/2017)



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