

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.25674 of 2004

P.Pathmanathan

... Petitioner

Vs.

1.The District Elementary Educational Officer,
Coonoor-2, The Nilgiris District.

2.S.Saraswathi

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the first respondent in Na.Ka.No.1775/2004/B2 dated 29.08.2004 and quash the same and direct the first respondent to restore the promotion already given to the petitioner as Middle School Head Master with all attendant benefits.

For Petitioner ... Mr.P.Rajendran

For R1

...

Mr.R.Govindasamy

Special Government Pleader

ORDER

Challenging the order of the first respondent dated 29.08.2004 and for a consequential direction to the first respondent to restore the promotion already given to the petitioner as Middle School Head Master with all attendant benefits, the present writ petition has been filed.

2. According to the petitioner, he was appointed as Secondary Grade Teacher on 19.08.1988 and he was promoted as Tamil Pandit on 15.07.2002. and thereafter, again reverted as Secondary Grade Teacher for want of vacancy and that again, he was promoted as Tamil Pandit on 17.10.2003. On that basis, the petitioner claims that the second respondent is junior to the petitioner in the feeder category to the post of Headmistress of the middle school as the second respondent was promoted as B.T. Assistant only on 09.12.2002. On that basis, the impugned order came to be passed cancelling the promotion of the petitioner as Headmaster in the Middle School. Therefore, the petitioner prays for setting aside the impugned order passed by the first respondent.

3. The learned counsel for the petitioner would submit that the impugned order dated 28.09.2004 was passed without giving any opportunity to the petitioner either by issuing any notice or by conducting any enquiry.

4. The learned Special Government Pleader appearing for the first respondent agreed the same that without notice to the petitioner, the impugned order came to be passed, cancelling the promotion of the petitioner as Headmaster in the Middle School.

5. The impugned order has been passed in the year 2004 and both the petitioner and the second respondent are continuing in service till date. The first respondent has not disturbed the service of the petitioner and the second respondent. Hence the impugned order is liable to be set aside.

6. In view of the above fact,
- i) the writ petition is allowed;
 - ii) The impugned order of the first respondent in Na.Ka.No.1775/2004/B2 dated 29.08.2004, is hereby set aside.
 - iii) The first respondent is directed to conduct enquiry by giving opportunity to the petitioner as well as the second respondent and pass appropriate orders on merits and in accordance with law, preferably, within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kkd

To

The District Elementary Educational Officer,
Coonoor-2, The Nilgiris District.

+1cc to the Government Pleader, S.R.No.67011

W.P.No.25674 of 2004

GN(06/10/2017)