



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN

AND

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.A. [MD]. No. 71 of 2014

1. G. Ignacy
2. K. Saravanan
3. M. Rani
4. S. Poomani
5. Manoharan

... Appellants/Respondents 3 to 7

Vs.

1. The Director,
Adi Dravidar Welfare Department,
Chepauk,
Chennai - 600 005.

2. The District Adi Dravidar Welfare Officer,
Tirunelveli District,
Tirunelveli.

... Respondents/Respondents No. 1&2

3. T. Ravikumar,
Warden,
Govt., Boys Hostel (ADW)
Near Union Office,
Kadayanallur,
Tenkasi Taluk,
Tirunelveli District.

... Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, to call for the entire records and set aside the order passed by this Court in W.P.(MD) No.5475 of 2010 vide its order dated 04.01.2013.

Prayer in WP(MD). 5475/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI FIED MANDAMUS to call for the records on the file of the 2nd respondent in connection with the impugned order of promotion passed by him in his proceedings in Na.Ka.No. A3/14671/2008 dated 27.2.2009 in favour of the respondents 3 to 7 as Graduate Warden and to declare the same as illegal and arbitrary and consequently direct the 1st and 2nd respondent to appoint the petitioner as



Graduate Warden based on his eligibility and qualification by following Rule 6 Clause II Annexure II of Tamil Nadu Adi Dravidar Welfare Subordinate service rules and based on the seniority with effect from 2009.

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For Appellants : Mr.R.Anand

For Respondent : Mr.M.Govindan, Spl.G.P.
For RR1 and 2
Mr.G.Thalaimutharasu
for R3

JUDGMENT

[Judgment of the Court was delivered by **G.R. SWAMINATHAN, J.**]

This appeal has been filed by the respondents 3 to 7 in W.P. (MD) No.5475 of 2010. The said writ petition was filed by the third respondent in this writ appeal, questioning the order dated 27 February 2009 in Na.Ka.No.A3/14671/2008, passed by the District Adi Dravidar Welfare Officer, Tirunelveli District, Tirunelveli, granting promotion in favour of the appellants herein as Tutors-cum-Wardens. The said writ petition was allowed by the learned single Judge by order dated 04 January 2013. Questioning the same, the instant writ appeal has been filed.

2.The writ petitioner/third respondent herein was appointed as secondary grade teacher with effect from 24 January 1997. The appellants herein were all working as Tamil Pandits in various schools under the control of Adi Dravidar Welfare Department. The second respondent herein, by the impugned order in the writ petition, promoted the appellants herein to the post of Tutors-cum-Wardens. The post of the Tutor-cum-Warden is covered by the Tamil Nadu Adi Dravidar Welfare Subordinate Service Rules. The said Rules have been issued in exercise of powers conferred by the proviso to Article 309 of the Constitution of India. The post of Tutor-cum-Warden finds place as category No.1 in class 2. In the annexure to the said rules, eligibility qualification for the said post of Tutor-cum-Warden is mentioned as "A degree of L.T. Or B.T. Of the Madras University or the B.Ed. Degree of the Annamalai University". According to the writ petitioner, even though he is possessed of the said qualification and the respondents did not have the said eligibility requirement, the said fact was overlooked and that promotion was issued in favour of the appellants herein.

3.The learned Judge allowed the writ petition on the ground that admittedly the appellants herein do not have any one of the qualifications mentioned in the statutory rules.



The appellants herein were graduates having B.Lit. degree at that time when the promotion order was issued.

4.The learned counsel appearing for the appellants contended that subsequently, they have acquired the requisite qualification. We do not want to consider or take note of this submission. The fact remains that on the date, when the appellants were promoted i.e. on 27 February 2009, the writ petitioner was having requisite qualification, whereas, the appellants herein did not have the said eligibility requirement. Therefore, the learned Judge rightly allowed the writ petition and set aside the promotion order dated 27 February 2009 impugned in the writ petition.

5.We do not find any ground to interfere with the well considered order passed by the learned single Judge. This writ appeal is accordingly dismissed. No costs.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

1. The Director,
Adi Dravidar Welfare Department,
Chepauk,
Chennai - 600 005.
2. The District Adi Dravidar Welfare Officer,
Tirunelveli District,
Tirunelveli.

+1 cc to Mr.G.Thalaimutharasu , Advocate in SR.No. 64260

+1 cc to Special Government Pleader in SR.No.53611

arul/skm

AE/MR KKR/SAR3/20.07.2017/3P/5C

W.A. [MD].No.71 of 2014
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