



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.07.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.[MD].Nos.919 to 922 of 2017
and
CMP (MD) Nos.6168 to 6174 of 2017

- 1) The Director of Most Backward Classes
and Denotified Communities,
Chepauk, Chennai.
- 2) The Joint Director,
Kallar Reclamation,
Madurai, Madurai District. ... Appellants / Respondents in all
appeals

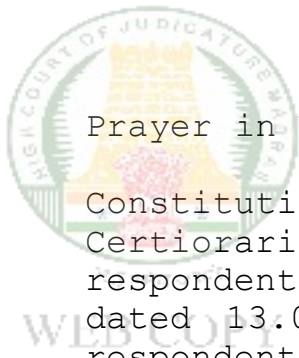
Vs.

K.Dhanalakshmi	... Respondent / Writ Petitioner in W.A.No.919/2017
N.P.S.Xavier Ravinthran	... Respondent / Writ Petitioner in W.A.No.920/2017
K.Kanagamani	... Respondent / Writ Petitioner in W.A.No.921/2017
R.Vijayalakshmi	... Respondent / Writ Petitioner in W.A.No.922/2017

PRAYER: Writ Appeals are filed under Clause 15 of the Letters Patent, to set aside the common order passed in W.P(MD).Nos.2396, 2264, 2538 & 1879 of 2012 dated 24.03.2017 on the file of this Court.

Prayer in WP(MD). 2396/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent herein in his proceedings in Na.Ka.No.H3/10092/2011 dated 13.02.2012 and to quash the same and to direct the 2nd Respondent to prepare the seniority list and the promotion panel for the post Tamil Pundits based on the date of regularization to the post of Secondary Grade Teacher by following the Special Rules for the Tamil Nadu Backward Classes Welfare Subordinate Service and the order of justice.



Prayer in WP(MD). 2264/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent herein in his proceedings in Na.Ka.No.H3/10092/2011 dated 13.02.2012 and to quash the same and to direct the 2nd respondent to prepare the seniority list and the promotion panel for the post of Tamil Pandits based on the date of regularization to the post of secondary grade teacher by following the Special Rules for the Tamil Nadu backward classes welfare subordinate service and thus render justice.

Prayer in WP(MD). 2538/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS, to call for the records of the 2nd Respondent herein in his proceedings in Na.Ka.No.H3/10092/2011, dated 13-02-2012 and to quash the same and to direct the 2nd Respondent to prepare the seniority list and the promotion panel for the post of Tamil Pundits based on the date of regularization to the post of Secondary Grade Teacher by following the Special Rules for the Tamil Nadu Backward Classes Welfare Subordinate Service.

Prayer in WP(MD). 1879/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ or order or direction particularly writ in the nature of certiorarified mandamus to call for the records of the 2nd respondent herein in his proceedings in Na.Ka.No.H3/10092/2011 dated 13.02.2012 and to quash the same and to direct the 2nd respondent to prepare the seniority list and the promotion panel for the post tamil bundits based on the date of regularization to the post of secondary grade teacher by following the special Rules for the Tamil nadu backward classes welfare subordinate service and thus render justice.

For Appellants : Mr.T.S.Mohamed Mohideen,
in all appeals Additional Government Pleader

For Respondent :Mr.G.Chandrasekar
in all appeals

COMMON JUDGMENT

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

These intra Court appeals have been filed questioning the common order dated 24.03.2017, made in W.P(MD).Nos.2396, 2264, 2538 & 1879 of 2012. By the said common order, the writ petitions were allowed.



2.The said writ petitions were filed by the respondents in these writ appeals, challenging the promotion panel dated 13.02.2012. The writ petitioners have been working as Secondary Grade Teachers in Kallar Reclamation Schools and are covered by a Special Rules called "Tamil Nadu Backward Class Welfare Subordinate Service Rules".

3.The issue in the present cases pertains to promotion to the post of 'Pandits in Tamil'. While preparing the impugned promotion panel, preferences had been given in favour of persons, who were working as Headmasters and Headmistresses in the primary schools.

4.The case of the writ petitioners was that there was no post of Headmasters / Headmistresses of primary schools as per the extant rules and therefore the writ petitioners and the private respondents ought to be treated as Secondary Grade Teachers and that their seniority should be worked out on the basis of their appointment as Secondary Grade Teachers and not their appointment as Headmasters / Headmistresses in primary schools.

5.The learned single Judge allowed the writ petitions and set aside the promotion panel dated 13.02.2012 and directed the Joint Director, Kallar Reclamation, Madurai, to prepare a new promotion panel in compliance with the directions set out in para 14 of the order made in the writ petitions. Aggrieved by the same, these intra Court appeals have been filed.

6.Heard the learned Additional Government Pleader appearing for the appellants and the learned counsel appearing for the respondents.

7.The learned Additional Government Pleader contended by placing reliance upon the provisions set out in Tamil Nadu Subordinate Service Rules. He would further fairly admit that there is no post of Headmaster or Headmistress in the "Tamil Nadu Backward Class Welfare Subordinate Service Rules".

8.As the writ petitioners and the private respondents are working in Kallar Reclamation Schools, they are governed by special rules. It is the special rules which have to be applied and not the general rules. The special rules were framed under Article 309 of the Constitution of India and have a statutory force. Therefore, the same will have to be followed in letter and spirit, though the practice followed hitherto may have been to the contrary. Since the special rules were not followed while making the impugned promotions, the learned Judge rightly quashed the same. No exception can be taken to the sound reasoning adopted by the learned single Judge in para 12 of the order made in the writ petitions.



9. The writ petitions were rightly allowed and there are no merits in these writ appeals. Accordingly these writ appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CSIII)

/True Copy/

Sub-Assistant Registrar

+4ccs to Mr.G.Chandrasekar, Advocate, SR.Nos.64579, 64576, 64577
and 64578

+4 ccs to The Special Government Pleader, SR.Nos.64375, 64379,
64376, 64378

gk

RL/9C/4P/KP/SAR1/21/7/2017

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