



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2017

CORAM:

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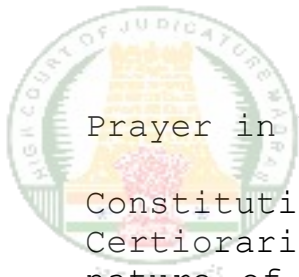
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD) Nos.632 of 2011
and
M.P.(MD) Nos.1 and 2 of 2011
and
W.A.(MD) Nos. 1439 of 2011
and
M.P.(MD) Nos.1 of 2011 and 1 of 2014

W.A.(MD) Nos.632 of 2011:-

Saraswathi ... Appellant/4th Respondent
Vs.
1.Ameluammal ... 1st Respondent/Writ Petitioner
2.The Director of Elementary Education,
College Road,
Chennai.
3.The District Elementary Educational Officer,
Office of the District Elementary Educational Officer,
Madurai.
4.The Assistant Elementary Educational Officer,
Office of the Assistant Elementary Educational Officer,
Chellampatti - 625 566. ... Respondents 2 to 4/
Respondents 1 to 3
5.Thilagavathy ... 5th Respondent/5th Respondent
6.Pushpa ... 6th Respondent/6th Respondent

Prayer: Writ Appeal filed under clause 15 of the Letters Patent,
to set aside the order dated 21.06.2011 made in W.P.(MD) No.7971
of 2007.



Prayer in WP(MD). 7971/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Certiorarified Mandamus or any other writ or direction in the nature of writs calling for the records relating to the impugned seniority list dated 1.01.1998, 01.01.2007 and the promotion granted in favour of the 4th Respondent to the post of Middle School Headmaster dated 21.07.2007 by the 2nd Respondent in Na.Ka.No.2901/A5/07 and quash the same in so far as revising and placing the 4th Respondent as senior to the petitioner in the seniority list for Secondary Grade Teacher in Chellampatty union and consequently direct the respondents 1 to 3 to treat the Petitioner as having been promoted on 9/9/1998 as Primary School Headmistress and accordingly place the Petitioner as Senior in the interse Seniority list drawn for promotion to the Post of Middle School Headmistress over and above the respondents 4 and 5 and grant all the consequential benefits including restrospective promotion to the Post of Middle School Headmistress, revision of Pay Scale, arrears of Salaary and all Monetary benefits and backwages.

For Appellant

: Mr.A.Thirumurthy

For R1, R5 and R6

: Mr.N.Dilip Kumar

For R2 to R4

: Mr.T.S.Mohammed Mohideen
Additional Government Pleader

W.A. (MD) No.1439 of 2011:-

- 1.The Director of Elementary Education,
College Road, Chennai.
- 2.The District Elementary Educational Officer,
Office of the District Elementary Educational Officer,
Madurai.
- 3.The Assistant Elementary Educational Officer,
Office of the Assistant Elementary Educational Officer,
Chellampatti - 625 566. ... Appellants/Respondents 1 to 3

Vs.

1.Alamelu Ammal ... Respondent/Writ Petitioner

2.Saraswathi

<https://hcservices.gov.in/cases/>

4.Pushpa

... Respondents/Respondents



Prayer: Writ Appeal filed under clause 15 of the Letters Patent, to set aside the order dated 21.06.2011 made in W.P.(MD) No.7971 of 2007.

Prayer in WP(MD). 7971/ 2007 :

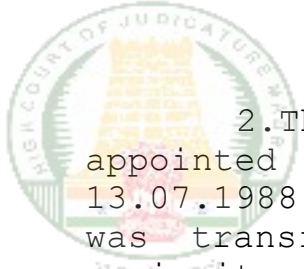
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For Appellants	: Mr.T.S.Mohammed Mohideen Additional Government Pleader
For R1	: Mr.N.Dilip Kumar
For R2	: Mr.A.Thirumurthy for M/s.Victory Associates
For R3 and R4	: No Appearance *****

COMMON JUDGMENT

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

The fourth respondent in W.P.(MD) No.7971 of 2017 has filed W.A.(MD) No.632 of 2011 questioning the order dated 21.06.2011 made in the said Writ Petition. The said writ petition was filed by the first respondent viz., Alamelu Ammal. The Director of Elementary Education has filed W.A.(MD) No.1439 of 2011 challenging the very same order. Since both the intra Court appeals arise out of the same order, they are being heard and disposed of together.



2. The first respondent Alamelu Ammal was originally appointed as Secondary Grade Teacher in Sedapatti Union on 13.07.1988. Her appointment was regularised on the same date. She was transferred to Chellampatti Union on 25.06.1992. In the seniority list for Secondary Grade Teacher dated 01.01.1993, Alamelu Ammal finds place at Sl.No.36, whereas the appellant in W.A.(MD) No.632 of 2011, namely Saraswathi, figures at Sl.No.43. The same status was maintained in the subsequent seniority list dated 01.01.1997 also.

3. Alamelu Ammal was promoted as Elementary School Headmistress on 22.06.1997, whereas Saraswathi was promoted as Elementary School Headmistress only on 09.09.1998. While so, in the seniority list dated 01.01.2007, the Writ Petitioner Alamelu Ammal was shown as ranked below the said Saraswathi and two others, who were also admittedly juniors to Saraswathi. Based on the said seniority list dated 01.01.2007, consequential order of promotion to the post of Middle School Headmistress was also made in favour of the appellant Saraswathi by the District Educational Officer vide proceedings dated 21.07.2007. Thereupon, the first respondent filed the said writ petition questioning the seniority list dated 01.01.2007 as well the consequential promotional order issued in favour of appellant Saraswathi dated 21.07.2007. The first respondent herein sought a direction for drawal of fresh seniority list for promotion to the post of Middle School Headmistress on the basis of her seniority in Secondary Grade Teacher list by placing her above the private respondents.

4. The learned Single Judge called for the entire records and after satisfying himself that the respondents 4 to 6 in the Writ Petition unfairly stole a march over the Writ petitioner Alamelu ammal, allowed the Writ Petition by quashing the order impugned in the writ petition and a direction was issued for promoting the writ petitioner as Elementary School Headmistress with effect from 09.09.1998 and thereafter as Middle School Headmistress with effect from 21.07.2007 with all benefits. Aggrieved by the aforesaid order made in the writ petition, both the Government as well as the fourth respondent in the writ petition have filed these intra Court appeals.

5. The main contention alleged by the learned counsel Mr.A.Thirumurthy appearing for the appellant Saraswathuy is that the writ petition should have been dismissed on the ground of laches. The appellant was promoted as Primary School Headmistress as early as on 09.09.1998. The same came to be questioned only in the year 2007. In fact, even the prayer originally made in the writ petition came to be amended. According to the learned counsel, matters relating seniority and promotion ought to be agitated at the earliest point of time.

<https://hcservices.ecourts.gov.in/hcservices/>

6. Even though, the contention put forth by the learned counsel appearing for the appellant in W.A.(MD) No.632 of 2011 is



attractive on closer scrutiny it cannot stand. The learned Single Judge had scanned through the entire records and arrived at a factual finding that the seniority list dated 01.01.1998 was not published and it was not issued by the competent authority. If the first respondent Alamelu Ammal had been put on notice about the downgrading of her seniority position and she chose to keep quiet, then her writ petition could be dismissed on the ground of laches. To a direct question posed by the Bench, both the learned counsel appearing for the appellant as well as the learned Additional Government Pleader admitted that the first respondent Alamelu Ammal was admittedly senior to the appellant Saraswathi in the post of Secondary Grade Teacher. It is simply not known as to how her position was downgraded. It was clearly an error committed by the authorities. Therefore the learned Single Judge rightly allowed the Writ Petition.

7. At this stage, the learned counsel for the appellant in W.A.(MD) No.632 of 2011 submitted that there are vacancies in the post of Middle School Headmistress and that interest of justice would be served by placing Alamelu Ammal above the appellant Saraswathi. In other words, the learned counsel for the appellant pleaded that while relief can be granted to Alamelu Ammal as sought for, the same need not have any impact on the current position of the appellant Saraswathi.

8. The learned Additional Government Pleader also submitted that Saraswathi can be accommodated and that there is no need to revert her to the post of Elementary School Headmistress.

9. In view of the above said submissions, we dispose of these Writ Appeals in the following manner :

(i) The relief granted in W.P.(MD) No.7971 of 2007 in favour of Alamelu Ammal by treating her as promoted to the post of Elementary School Headmistress on 09.09.1998 and as Middle School Headmistress with effect from 21.07.2007 is confirmed.

(ii) The first respondent Alamelu Ammal shall be treated as ranking above the appellant Saraswathi in the post of Middle School Headmistress. The benefit given to the first respondent Alamelu Ammal as having been promoted is only for notional purposes and the question of paying any monetary benefits would not arise. This is only for the purpose of counting her service in the said posts for future benefits, such as grant of increment and pension.

(iii) Ms.Saraswathi, appellant in W.A.(MD) No. 632 of 2011 need not be reverted back and she can continue as Middle School Headmistress, but below the Alamelu Ammal.



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10. These Writ Appeals are disposed of as indicated above.
No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (ADII)

/True Copy/

Sub-Assistant Registrar

To

1. The Director of Elementary Education,
College Road, Chennai.
2. The District Elementary Educational Officer,
Office of the District Elementary Educational Officer,
Madurai.
3. The Assistant Elementary Educational Officer,
Office of the Assistant Elementary Educational Officer,
Chellampatti - 625 566.

+One cc to M/s.N.Dilipkumar, Advocate, SR.No.67429

+One cc to The Special Government Pleader, SR.No.67880

SKM

RL/6C/6P/MR/KKR/SAR1/29/8/2017

ORDER MADE IN
W.A. (MD) Nos.632 of 2011
and
M.P. (MD) Nos.1 and 2 of 2011
and
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