



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.04.2017
CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**
AND
THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A.[MD].No.656 of 2013
and
M.P.(MD) No.2 of 2013

1. The Director of School Education,
Chennai - 6.
2. The Chief Educational Officer,
Tiruchirappalli.
3. The District Educational Officer,
Musiri,
Tiruchirappalli District. : Appellants

Vs.

P.Mullaivendan : Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 19.07.2012 made in W.P.(MD).No.1777 of 2007, on the file of this Court.

Prayer in WP(MD). 1777/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandmaus, calling for the records relalting to the order passed by the second respndnet in Na.Ka.No. 2320/Aa 2/06 dated 28/07/2006 and quash the same, and direct the respndnets to prmote the petitioner as headmaster-High School, from the date on which his juniors were promoted, and confer all the consequential benefits.

For Appellants : Mr.V.Muruganantham, AGP
For Respondent : Mr.V.Panneerselavam for
M/s.C.S.Associates

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.V.Muruganantham, learned Additional Government Pleader appearing for the appellant and Mr.V.Panneerselvam, learned counsel for the respondent/writ petitioner.



2.The appellants were aggrieved by the order and direction dated 19.07.2012 issued in W.P.(MD) No.1777 of 2007 filed by the respondent herein. The respondent challenged the order passed by the second appellant dated 28.07.2006 and to promote him as Headmaster in the High School from the date on which his juniors were promoted and confer all the consequential benefits.

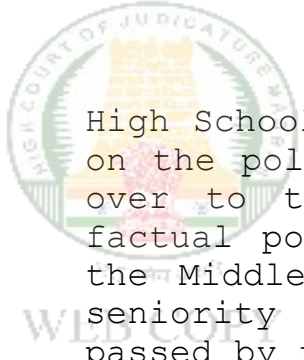
3.The writ petitioner was working as Tamil Pandit in Moovanur Panchayat Union Middle School. Pursuant to G.O.Ms.No.884, Education Department dated 24.09.1992, the school was upgraded as High School and the writ petitioner was absorbed as Tamil Pandit in the newly upgraded High School on 10.11.1992. Thus, from the said date, the writ petitioner came into High School Services from the Panchayat Union services. The appellants sought to deny the benefit of seniority and promotion to the writ petitioner on he being absorbed in the High School Services. This order was put to challenge before the Writ Court.

4.The learned Single Judge, after considering the factual aspects, pointed out that while issuing G.O.Ms.No.884, it has been stated by the Government that the services rendered by the Teachers in the Middle School will not be taken into consideration for the purpose of seniority and promotion on they being absorbed in the High School Services. Further, with regard to the plea raised by the appellants that the cut off date has been fixed, the Court rightly observed that no cut off date could be chosen by the appellants, since the Teachers were not informed that the services rendered by them in the Panchayat Union School would not be taken into consideration for seniority and promotion in the High School Services.

5.Further, the Court pointed out that the upgradation of Middle School into High School was a policy decision of the Government and in such circumstances, the writ petitioner was absorbed in the High School Services and the writ petitioner did not want to come into High School Services and it was purely a decision taken by the Government. Further, the learned Judge took into consideration the order passed by this Court in W.P.(MD) No.41500 of 2006 etc., batch, wherein, somewhat similar case arose for consideration pertaining to Doctors, who served in Panchayat Unions were later on absorbed in the Government service and the service rendered by them in the Panchayat Union was not counted for the purpose of seniority and other purpose and the Writ Court, after taking into consideration the decisions of the Supreme Court and the Division Bench of this Court, held that the service rendered by those Doctors in the Panchayat Union have to be considered.

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6.Furthermore, we may note that no option were called for from the writ petitioner as to Whether he would like to migrate to the



High School services from the Middle School services. Thus, based on the policy decision, the writ petitioner was compelled to move over to the High School services. In the light of the said factual position, the service rendered by the writ petitioner in the Middle School should be reckoned for all purposes including seniority and promotion. Thus, there is no error in the order passed by the learned Single Judge.

7. Accordingly, this writ appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Director of School Education,
Chennai - 6.
2. The Chief Educational Officer,
Tiruchirappalli.
3. The District Educational Officer,
Musiri, Tiruchirappalli District.

+1cc to M/S.V.PANEERSELVAM, Advocate SR.No.53078

+1cc to Special Government Pleader, SR.No.53140

JUDGMENT MADE IN
W.A. [MD] .No.656 of 2013
and
M.P. (MD) No.2 of 2013
19.04.2017

JM/KP/SAR 4/02.05.2017/3P/6C