

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.07.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13307 of 2015
and
M.P.No.1 of 2015 and
W.M.P.No.22046 of 2017

K.Selvakumar

vs

..Petitioner

1. The Commissioner (Education),
Chennai Corporation,
Rippon Building,
Chennai - 600 003.
2. The Deputy Commissioner (Education),
Chennai Corporation,
Rippon Building, Chennai - 600 003.
3. The Education Officer, Education Department,
Chennai Corporation,
Rippon Building,
Chennai - 600 003. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to promote the petitioner to the post of BT Assistant (Maths) in the existing vacancies in all Chennai Corporation Schools based on his seniority and eligibility, before resorting to fill up the post by accommodating 'request transfer' from other units by way of unit transfer, by considering the representation submitted by the petitioner dated 20.04.2015.

For Petitioner : Mr.G.Sankaran
For Respondents : M/s.Karthikaa Ashok

O R D E R

The relief sought for in this writ petition is for a direction to the Respondents to promote the petitioner to the post of BT Assistant (Maths) in the existing vacancies in all Chennai Corporation Schools based on his seniority and

eligibility before resorting to fill up the post by accommodating 'request transfer' from other units by way of unity transfer by considering the representation submitted by the writ petitioner dated 20.04.2015.

2.The relief sought for as such in the writ petition is innocuous. There cannot be any such general directions for promotions and all promotions are to be granted only in accordance with the rules in force.

3.The writ petitioner was initially appointed as Secondary Grade Teacher in Elementary Education on 02.01.2003. Subsequently, the petitioner acquired B.Sc., (Maths) in the year 2005 and B.ED., in the year 2008. Accordingly, the petitioner became eligible for promotion to the post of BT Assistant. However, the qualification possessed by the writ petitioner is subject to the verification as the petitioner had undergone the regular B.Sc and B.Ed course through open University or through Correspondence. Without expressing any opinion on these factors, it is for the respondents to verify validity of the degree possessed by the writ petitioner.

4.However, grievances of writ petitioner is that he was working in the same post for long years and he is eligible for promotion to the post of BT Assistant from the panel of the year 2009. But, his name has not included in the panel nor promotion has been granted to him. Thus, the writ petitioner is constrained to move the present writ petition.

5.The learned counsel appearing on behalf of the respondents opposed the contention by stating that during the relevant point of time, the writ petitioner was not eligible for promotion and as and when his turn comes, the case of the writ petitioner would be considered in accordance with the rules.

6. This Court is of an opinion that promotion can never be claimed as a matter of right. However, consideration for promotion is a fundamental right of an employee. Undoubtedly, all the eligible employees are to be considered for promotion at the time of preparation of panel. Thus, promotion as it is can never be claimed as a matter of right and when the respondents undertake the process of preparation of panel, then all the eligible employees are to be considered.

7.In the present writ petition on hand, the writ petitioner has not established that the respondents have committed any violation of the promotion rules nor any junior, who was promoted out of turn is impleaded as a party respondent in the present writ petition. In the absence of establishing that the respondents have violated the rules of promotion, the relief as

such sought for to consider the case of the writ petitioner for promotion cannot be granted.

8.It is made clear that the respondents at the time of undertaking the process of promotion should consider the names of all the eligible teachers, who are waiting for promotion and at the time of preparation of panel, the rule of seniority is also to be followed.

9.At the outset, the respondents are bound to follow the promotion rules and the seniority, while preparing the panel and granting promotion. This being the principles to be followed, the relief as such sought for to direct the respondents to grant promotion to the writ petitioner cannot be considered at all.

10.In this view of the matter, no further adjudication is required in this writ petition. Accordingly, the writ petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

av/kak

+1cc to Mr.G.Sankaran, Advocate SR.No.42982
+1cc to Mr.A.Karthika Ashok, Advocate SR.No.42689

W.P.No.13307 of 2015
and

सत्यमेव जयते
W.M.P.Nos.1 of 2015 and 22046 of 2017

SJ(CO)
GN(19/07/2018)

WEB COPY