

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.211 of 2018
and C.M.P.No.1608 of 2018

K.Venkatesalu ... Appellant

-vs-

- 1.K.Bhanumathi
- 2.The Secretary to Government,
School Education Department,
Fort St.George, Chennai-600 009.
- 3.The Director of Elementary Education,
DPI Campus, College Road,
Chennai-600 006.
- 4.The District Elementary Educational Officer,
Krishnagiri District.
- 5.The Assistant Elementary Educational Officer,
Kelamangalam Union,
Krishnagiri District. ... Respondents

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.16121 of 2017 dated 28.06.2017.

Prayer in WP.No.16121 of 23017:Petition filed under Article 226 of the constitution of India, praying for the issuance of mandamus, directing the 2nd respondent herein to consider the representation of the petitioner dated 8.6.2017 in the light of the Tamilnadu Elementary Education Service Rules in G.O. Ms. No.1383 dated 23.8.1988 Rules 6 (b) (ii) and accordingly direct the respondents to delete the name of the 5th respondent from the panel for promotion to the post of Elementary School Headmaster (Telugu Medium) as on 1.1.2017 for not possessing the second language Tamil Test conducted by the Tamilnadu Public Service commission and accordingly direct the respondents to promote the petitioner to the post Elementary School Headmaster (Telugu Medium) School in the place of the 5th respondent.

For Appellant :: Mr.K.Selvaraj

For Respondents:: Mrs.Dhakshayani Reddy for R1

Mr.K.Karthikeyan, Govt.Advocate
for R2 to R4

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The first respondent herein was appointed as Secondary Grade Teacher on 18.04.2005 and her services were regularised on 01.06.2006 and her probation was also declared with effect from 31.05.2008. When she was waiting for promotion to the post of Elementary School Headmaster (Telugu medium) school, the Assistant Elementary Educational Officer, Kelamangalam prepared a panel for promotion to the post of Elementary School Headmaster (Telugu) as on 01.01.2017 for minority primary schools. So far as inclusion of the appellant herein in the panel is concerned, the first respondent has given a representation dated 08.06.2017 to the authorities not to promote the appellant.

2.The first respondent filed a writ petition before this Court in W.P.No.16121 of 2017 with a prayer to consider the said representation and by order dated 28.06.2017, the learned single Judge gave a direction to the authorities to consider the representation of the first respondent on merits and in accordance with law, without going into the merits of the case. The said order is under challenge in this writ appeal by the appellant / fifth respondent in the writ petition.

3.The learned counsel for the appellant has submitted that before the learned single Judge, the first respondent herein / writ petitioner has suppressed the material facts and has obtained an order to consider her representation by the authorities; had the appellant been given an opportunity, he would have established his case before the learned single Judge that he is fully qualified and eligible to be promoted as the Headmaster of the Telugu Medium Panchayat Union Primary School at Kadalakka Sandiram, Keelamangalam Union. He further submitted that the appellant has obtained Diploma in Teacher Education in July 2000 and has also completed B.Lit (Tamil) in the University of Madras in May 2009. Thereafter, he also pursued the degrees in B.A.(English) Literature and B.A.(Telugu). Added to this, he also pursued the degree in B.Ed.(English) from the Annamalai University and the degree in M.A. Arts (English) from the University of Madras, according to the counsel for the appellant.

4.The learned counsel for the appellant has submitted that the appellant was appointed as Secondary Grade Teacher by order dated 14.12.2004 of the District Elementary Educational Officer

in the Panchayat Union Primary School, Hosatty and his services has been regularised after completion of the probation period. In the seniority list for the post of Grade-1 Telugu Pandit and in the seniority list for the post of Headmaster of Telugu Medium schools, the name of the appellant has been placed above the name of the writ petitioner. He also submitted that since the appellant obtained B.Lit (Tamil) degree from the University of Madras, he is fully qualified to be appointed as Headmaster in the Tamil Medium school. Taking into consideration the educational qualifications of the appellant, the appellant was promoted as the Headmaster of the Panchayat Union Primary School (Telugu), Kaddalakka Sandiram, Kelamangalam Block, Krishnagiri District and on 01.06.2017 itself the appellant has joined the duty.

5. Stating the above facts, the learned counsel for the appellant has submitted that the above material facts have been suppressed by the writ petitioner before the learned single Judge. He further submitted that as per the provisions of Rule 6 (iii) of the Special Rules of the Tamil Nadu Elementary Educational Services, if the medium of instruction in the school is other than Tamil, i.e., Telugu, Urdu, Malayalam and Kannadam, Pandit Grade-I qualified in that language may be appointed as the Headmaster. As the appellant possesses the necessary qualification to hold the post of Language Pandit Grade-I in Telugu, the name of the appellant was included in the seniority list for the post of Language Pandit Grade-1 (Telugu) of the year 2017. Therefore, there is no irregularity or illegality in promoting the appellant as the Headmaster of the Telugu Medium Panchayat Union Primary School. Subsequent to the order passed by this Court in the writ petition to consider the representation of the writ petitioner, which is under challenge in this appeal, the District Elementary Educational Officer has predetermined that the promotion of the appellant to the post of Headmaster in the Telugu Medium school is wrong and therefore he shall be depromoted and for that an explanation has been sought for from the appellant. It is further submitted that the main ground of attack of the writ petitioner is that the appellant has not passed Tamil Second Language Test conducted by the Tamil Nadu Public Service Commission, whereas the appellant has completed three year degree course in Bachelor of Literature in Tamil. It is also submitted that the appellant has passed Part-I Tamil Paper in B.A. (English Literature) which is more than the qualification of the Second Language Test conducted by the Tamil Nadu Public Service Commission.

6. Stating so, the learned counsel for the appellant has submitted that the order passed by the learned single Judge in the writ petition directing to consider the representation of the first respondent herein / writ petitioner, has to be set aside.

7.The learned counsel for the first respondent has vehemently contended that it is mandatory that the appellant has to pass the Tamil Second Language Test conducted by the Tamil Nadu Public Service Commission, but he had not passed the said examination. She also submitted that the qualifications already acquired by the appellant cannot be treated as sufficient to meet out the purpose.

8.Heard the learned counsel for the appellant, learned counsel for the first respondent and the learned Government Advocate for the respondents 2 to 4 and perused the materials available on record.

9.It appears that on considering the representation of the first respondent, the case of the appellant who has already been promoted, has been reconsidered on the ground that he has not passed a particular test conducted by the Tamil Nadu Public Service Commission and it has been predetermined that the promotion of the appellant to the post of Headmaster in the Telugu Medium school is wrong and therefore he has to be depromoted and for that an explanation has been sought for from him. It appears that the appellant has completed B.Lit (Tamil). It is a common understanding that B.Lit (Tamil) is more than sufficient and competent enough for a person to be qualified in Tamil language and it is more than what has been prescribed, viz., a pass in the Tamil Second Language Test conducted by the Tamil Nadu Public Service Commission. Hence, the contention of the counsel for the first respondent that the appellant is not entitled to be promoted as Headmaster on the ground that he has not passed the required qualification, does not hold water. In the present case, the appellant is deemed to have acquired the qualification more than what has been prescribed, as he already got qualified in B.Lit. (Tamil).

10.Hence this writ appeal is allowed and the order passed by the learned single Judge directing the authorities to consider the representation of the first respondent dated 08.06.2017, which has ultimately led to the predetermination that the promotion of the appellant to the post of Headmaster in the Telugu Medium school is wrong, is set aside. Consequently the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

KM

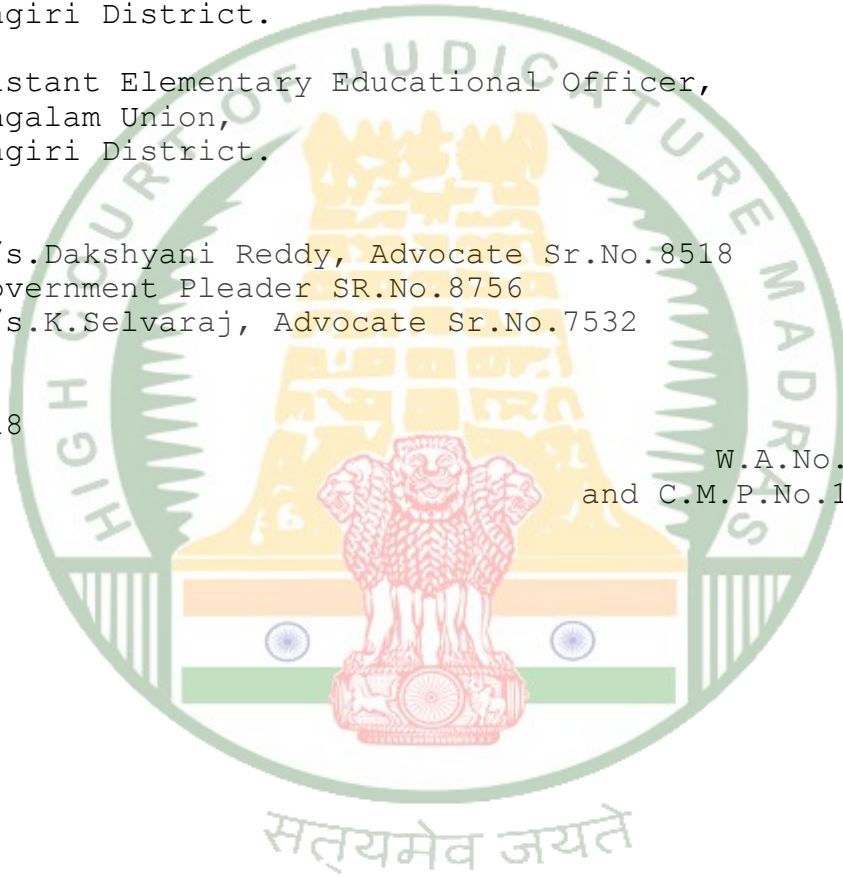
To

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Government of Tamil Nadu,
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- 4.The Assistant Elementary Educational Officer,
Kelamangalam Union,
Krishnagiri District.

+1cc to M/s.Dakshyani Reddy, Advocate Sr.No.8518
+1cc to Government Pleader SR.No.8756
+1cc to M/s.K.Selvaraj, Advocate Sr.No.7532

CWR(Co)
sm:6.2.2018

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