

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2018

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.33244 of 2012

Elanchezhian

.. Petitioner

vs

1.The Director of Elementary Education,
Directorate of Elementary Education,
Chennai-6.

2.The District Elementary Education Officer,
Villupuram.

3.The Assistant Elementary Education Officer,
Thirukovilur,
Villupuram District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents to promote the petitioner as B.T. Tamil Pandit in any one of the school under the control of the third respondent with effect from the date of promotion of immediate juniors of the petitioner and to grant all service, monetary and other consequential benefits seniority in the cadre of Tamil Pandit.

For Petitioner : Mr.R.Nalliyappan

For Respondents : Mrs.M.E.Raniselvam

Additional Government
Pleader

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ORDER

This writ petition has been filed by the petitioner seeking a writ of mandamus directing the respondents to promote him as B.T. Tamil Pandit in any one of the schools under the control of the third respondent with effect from the date of promotion of immediate juniors of the petitioner and to grant all service, monetary, other consequential benefits and seniority in the cadre of Tamil Pandit.

2. The facts in a nutshell are as follows: The petitioner, who possesses Diploma in Teacher Training, was appointed as Secondary Grade Teacher in Panchayat Union Primary School, Villupuram on 05.10.1988 and subsequently, he was promoted as Headmaster in Panchayat Union Primary School. Thereafter, the petitioner had completed B.Lit. degree based on the qualification of Diploma in Teacher Education. The petitioner completed his Higher Secondary Course in September 2011 and was awaiting promotion.

3. According to the petitioner, subsequent to the appointment of the petitioner, the persons who had completed Teacher Training Course after completion of Higher Secondary Course were recruited and his seniority was fixed over and above them. Insofar as panels for promotions were prepared solely based on the date of appointment as Secondary Grade Teacher, the petitioner was promoted as Primary School Head Master.

4. Pursuant to G.O.Ms.No.107, P & AR Department, dated 18.08.2009, the respondents have taken a stand that the persons who completed the Teacher Training Course without completing the Higher Secondary Course shall not be considered to enlist their names in the panel for promotion along with the persons who completed the Teacher Training Course after completion of the Higher Secondary Course. The petitioner was denied promotion on the ground that he has completed the Higher Secondary Course after completion of Diploma in Teacher Training Course.

5. According to the petitioner, the respondents without appreciating that the Diploma in Teacher Training Course is equivalent to that of the Higher Secondary Course, neglected to include the name of the petitioner in the panel for promotion for the post of B.T. Tamil Pandit in the year 2011. The Government Order in G.O.Ms.No.107, dated 18.08.2009 will not be applicable to the petitioner, as at the time of joining the Course of Diploma in Teacher Training, the minimum educational qualification required was 10th standard. On 09.10.2011, the petitioner sent a representation requesting to promote him for the post of B.T. Tamil Pandit in any one of the Panchayat Union Middle Schools. Despite receipt of the same, the respondents have not considered the plea of the petitioner.

6. The second respondent filed the counter stating that at the time of appointment of the petitioner, he was in possession of the general educational qualification of S.S.L.C. and professional education qualification of Diploma in Teacher Education only. The said qualifications are requisite only for the post of Secondary Grade Teacher and Headmaster of Elementary School. The petitioner has passed B.Lit. without the basic

qualification i.e., Higher Secondary Course. According to the second respondent, G.O.Ms.No.107, dated 18.08.2009 mandates that the persons who had acquired the degree qualification after acquiring the requisite basic qualification alone should be given appointment or promotion to the next avenue/higher post for which the degree qualification is necessary. The action of the respondents in not having considered the name of the petitioner for inclusion in the panel of eligible persons to the next higher post of B.T. Assistant (Tamil) for the years 2011-2012 was in order. The petitioner had not submitted any representation dated 09.10.2011 and therefore, the question of passing orders by the respondents does not arise.

7. I heard Mr.R.Nalliyappan, learned counsel for the petitioner and Mrs.M.E.Rani Selvam, learned Additional Government Pleader for the respondents. Perused the materials available on record.

8. The petitioner was working as Secondary Grade Teacher from 1988 onwards and subsequently, he was promoted as Primary School Headmaster and posted in the Panchayat Union Primary School in the year 2002. While he was working as Panchayat Union Primary School Headmaster, he had completed B.Lit. degree and then he had completed Higher Secondary Course during 2011. According to the petitioner, he is entitled to promotion for the post of B.T. Tamil Pandit.

9. The only reason for removing the petitioner from the panel for promotion is that as per G.O.Ms.No.107, dated 18.08.2009, one should have studied +2 course before joining the Undergraduate Course. In this case, the petitioner had not studied +2 course before he joined B.Lit. Course. Thus, according to the respondents, the petitioner is not eligible for promotion.

10. In my considered view, the said stand cannot be accepted. This issue came up for consideration on several occasions before this Court as to whether the degree obtained without doing +2 course will be valid for the purpose of promotion. While considering the said issue, in number of writ petitions, this Court had taken a consistent view that doing Diploma in Teacher Education will be treated equivalent to +2 Course.

11. In W.P.No.27563 of 2011, dated 04.10.2012, this Court held as under:

"5. Learned counsel appearing for the petitioner and as well as learned Government Advocate appearing for the respondents submits that the order of this Court dated 2.7.2012 made in

W.P.Nos.25432 of 2011 etc. will cover the case of the petitioner, wherein this Court, in paragraphs 21 and 22 of the said order, has held as follows:

"21.Hence, for all the aforesaid reasons, paragraph no.22 of the proceedings of the Director of Elementary Education dated 13.9.2011 issued in Na.Ka.No.12118/D1/2011 is quashed insofar as it relates to treating those who have undergone Teacher Training course i the Higher Secondary course as those who have completed only Higher Secondary course. In view of this, as far as W.P.No.25432 of 2011 is concerned, the impugned order dated 16.9.2011 passed by the third respondent by which the fifth respondent is promoted as Middle School Headmaster, is quashed. Consequently, in W.P.No.25432 of 2011 and 23898 of 2011, the official respondents are directed to promote the petitioners as Middle School Headmaster with effect from the date on which their juniors were promoted as Middle School Headmasters and to award consequential benefits to the petitioners.

22. As far as W.P.No.29057 of 2011 is concerned, the respondents are directed to consider the name of the petitioner and to include his name in the panel prepared for promotion to the post of Middle School Headmaster as on 01.01.2011 and to promote him as Middle School Headmaster, if he is otherwise qualified.

6. In view of the same, the impugned order of the second respondent dt. 7.10.2011 is liable to be quashed and accordingly, quashed and the writ petition stands allowed. The respondents are directed to promote the petitioner as Headmaster, Panchayat Union Middle School and fix the seniority over and above his immediate juniors. No order as to costs. Consequently, connected miscellaneous petition is closed."

12. When an identical issue cropped up in W.P.(MD) No.3869 of 2012, by order 15.07.2014, this Court held as under:

"3.The only reason for removing the petitioner from the panel for promotion to the post of Middle School Headmistress as per the order of the Assistant Elementary Educational Officer, Pappakudi

on 16.12.2011 was that, as per G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009, one should have studied Plus-Two course before joining the Undergraduate Course. In this case, the petitioner had not studied Plus-Two at all before she joined B.Lit. Course. Thus, according to the respondents, the petitioner is not eligible for promotion, as the degrees obtained by her, ie., B.Lit. and M.A., cannot be considered for promotion since the petitioner had not studied Plus-Two Course.

4. In my considered opinion, the said stand cannot be accepted. This issue came up for consideration on several occasions before this Court as to whether the degree obtained without doing Plus-Two Course will be valid for the purpose of promotion. While considering the said issue, in a number of writ petitions, this Court had taken a consistent view that doing Diploma in Teacher Education will be treated equivalent to Plus-Two Course. Here in this case also, the petitioner had studied Diploma in Teacher Education before joining B.Lit. Course. In this regard, I may refer to a common order passed in a batch of writ petitions, in W.P.(MD) Nos. 10616 to 10618 of 2011 dated 03.10.2013, in K.Raghavan vs. The State of Tamil Nadu, rep.by its Secretary, Department of School Education, Fort St.George, Chennai and others, wherein this Court, relying on the earlier decisions of this Court, took a view that such candidate who has studied Undergraduate Course without doing Plus-Two Course, but after having studied Diploma in Teacher Education, will be eligible for promotion, provided the candidate is otherwise eligible. In the case on hand, the only reason stated for removing the petitioner from the panel for promotion is that she did not study Plus-Two Course before joining B.Lit. Course. This reason cannot be accepted in view of the above settled position of law.

5. Therefore, I hold that the petitioner is entitled for promotion as Middle School Headmistress from the date on which her immediate juniors were promoted as per the panel prepared as on 01.01.2011. Since I am issuing a direction for promotion of the petitioner at par with her juniors, in my considered opinion, there is no need to interfere with the promotion of the respondents 5 to 8.

6. In view of the above, the writ petition is allowed. The respondents 2 to 4 are directed to

promote the petitioner as Middle School Headmistress from the date on which her immediate juniors were promoted as per the panel for promotion prepared as on 01.01.2011, and give all monetary benefits including continuity of service in the promoted post. Such consequential order shall be passed within a period of three months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed. No costs."

(emphasis supplied)

13. As stated supra, the petitioner was not considered for promotion on the ground that he has not studied +2 course before joining B.Lit. Course. The aforesaid stand taken by the respondents cannot be sustained in view of the settled position of law. Therefore, I am of the considered view that the petitioner is entitled for promotion as B.T. Tamil Pandit from the date on which his immediate juniors were promoted as per the panel of 2011-2012.

14. In the result:

(a) this writ petition is allowed;

(b) the respondents are directed to promote the petitioner as B.T. Tamil Pandit from the date on which his immediate juniors were promoted as per the panel for promotion 2011-2012 and give all monetary benefits, other consequential benefits, if any and also seniority in the cadre of Tamil Pandit;

(c) the said exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS VI)

//True copy//

Sub Assistant Registrar

vs

To

1. The Director of Elementary Education,
Directorate of Elementary Education,
Chennai-6.

2. The District Elementary Education Officer,
Villupuram.

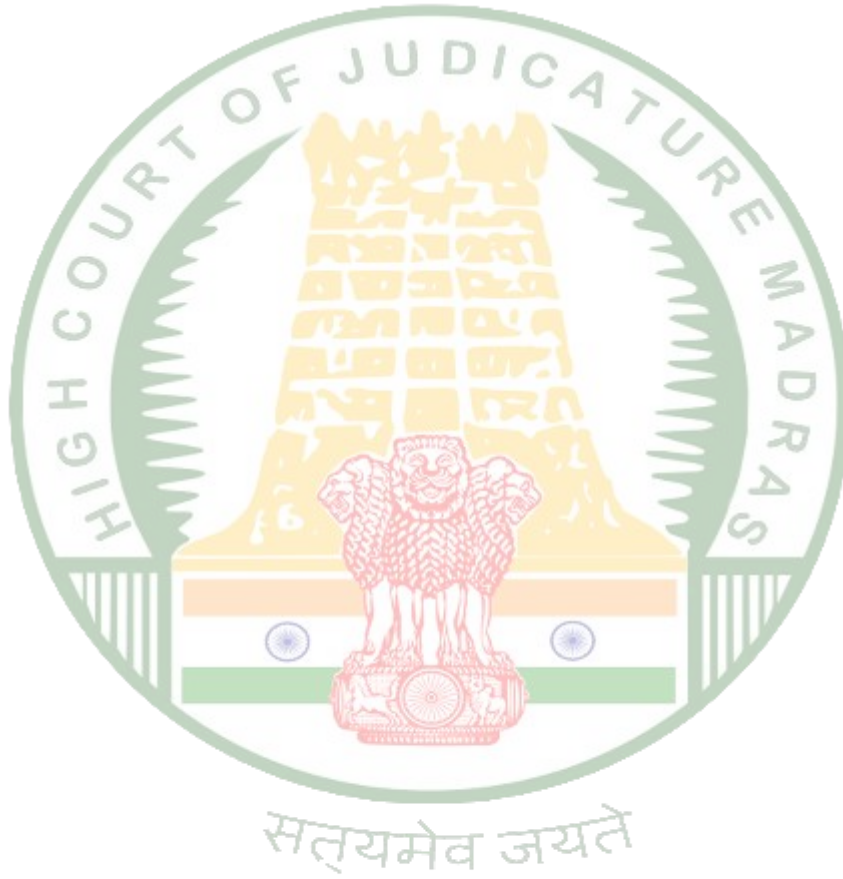
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3.The Assistant Elementary Education Officer,
Thirukovilur,
Villupuram District.

+1cc to Mr.R.Nalliyappan, Advocate SR.No.35760

W.P.No.33244 of 2012

GMR (CO)
GN (18/06/2018)



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