

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.P.No.2430 of 2008
& M.P.No.1 of 2008

P.Prabhu Pandian

... Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. by its Secretary,
School Education Department,
Fort St. George,
Chennai - 600 009.
2. The Director of Elementary Education,
College Road,
Chennai -600 006.
3. The District Elementary Educational Officer,
Erode District,
Erode.
4. The Assistant Elementary Educational Officer,
Anthiyur Panchayat Union,
Erode District.
5. V.Vanaja
6. T.K.Panneerselvam

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, calling for the records of the 1st respondent issued in G.O.No.166, School Education (S2) Department, dated 07.06.1999, 3rd and 4th respondent in relation to the panel as on 01.01.2007 fit for promotion to the post of Middle School Headmaster for Anthiyur Panchayat Union, Erode District and quash the same in so far as the petitioner is concerned and issue a consequential direction to the respondents to promote the petitioner as Middle School Headmaster in Anthiyur Panchayat Union, Erode District with service and monetary benefits by including the petitioner in the seniority

list of B.T. Assistant as on 01.01.2007 at the appropriate place for Anthiyur Panchayat Union.

For Petitioner : Mr.R.Saseetharan
For Respondents : Mr.P.Raja,
Government Advocate for R1 to R4
No appearance for R5 and R6.

O R D E R

This writ petition has been filed for issuance of a writ of Certiorarified Mandamus, calling for the records of the 1st respondent issued in G.O.No.166, School Education (S2) Department, dated 07.06.1999, 3rd and 4th respondent in relation to the panel as on 01.01.2007 fit for promotion to the post of Middle School Headmaster for Anthiyur Panchayat Union, Erode District and quash the same in so far as the petitioner is concerned and issue a consequential direction to the respondents to promote the petitioner as Middle School Headmaster in Anthiyur Panchayat Union, Erode District with service and monetary benefits by including the petitioner in the seniority list of B.T. Assistant as on 01.01.2007 at the appropriate place for Anthiyur Panchayat Union.

2. Heard both sides and perused the documents available on record. However, after hearing the arguments advanced by both learned counsels, the decision of this Court in W.P.No.9261 of 2013 M.P(MD) Nos.12 of 2013 was shown to the learned counsel for the petitioner and respondents, particularly, paragraph no.48 and 49, which is extracted below:

"48. Relaxation of Proviso 36(a) has been done properly to overcome the difficulties and on the principle "just and equitable". Power of relaxation conferred on the Governor under Rule 48 of the Tamil Nadu State and Subordinate Services is an exceptional power and that the same has been exercised to avoid discrimination in the matter of promotion to the post of Middle School Headmaster/Headmistresses (B.Ed., Grade), and by relaxation of the said rule, all the feeder categories, can get equal opportunities, for promotion, and thus the chances of one group of the feeder category post, taking away all the promotional posts, leaving the rest high and dry is avoided. The exercise of the power under rule 48 of the Tamil Nadu State and Subordinate Service Rules is in consonance with the principle "just and equitable". The impugned G.O., satisfies the test of reasonableness, fair and equitable distribution

and does not suffer from any arbitrariness on the touchstone of equality enshrined in the Constitution on India.

49. It should be further noted that by relaxing proviso to rule 36(a), the essential qualifications prescribed for the post of Middle School Headmasters/Headmistresses (B.Ed., Grade) is not relaxed, rule 48 of the Tamil Nadu State and Subordinate Service Rules, provides for relaxation of any provision in the general rules or special rules in favour of "any class of persons" and it is the domain of the Governor to relax the rigour of the general rules to any person or class of persons. Relaxation of rule 36(a) of the Tamil Nadu State and Subordinate Services, does not nullify the special rules framed for the educational subordinate service, as all the three feeder category posts are already eligible to be considered for promotion to the post of Middle School Headmasters/Headmistresses (B.Ed., Grade). Therefore, relaxation of proviso 36(a) of the above said rules, to Elementary School Headmasters/Headmistresses, which is also one of the feeder category posts, as per the special rules, for promotion as Middle School Headmasters/Headmistresses (B.Ed., Grade), cannot be said to have been made arbitrarily. The difficulties that would have arisen, had there been a change in the method of promotion, after the marginal pay revision, have been wiped out and the long and continuous procedure followed in Education Department, has been sustained. The power given in the rules can be exercised by a general administrative order or a special administrative order by the Governor of Tamil Nadu and thus the above said G.O., issued by the Governor is valid."

3. In view of the judgment cited above, nothing further survives in this writ petition. Hence, this writ petition is dismissed. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

msv

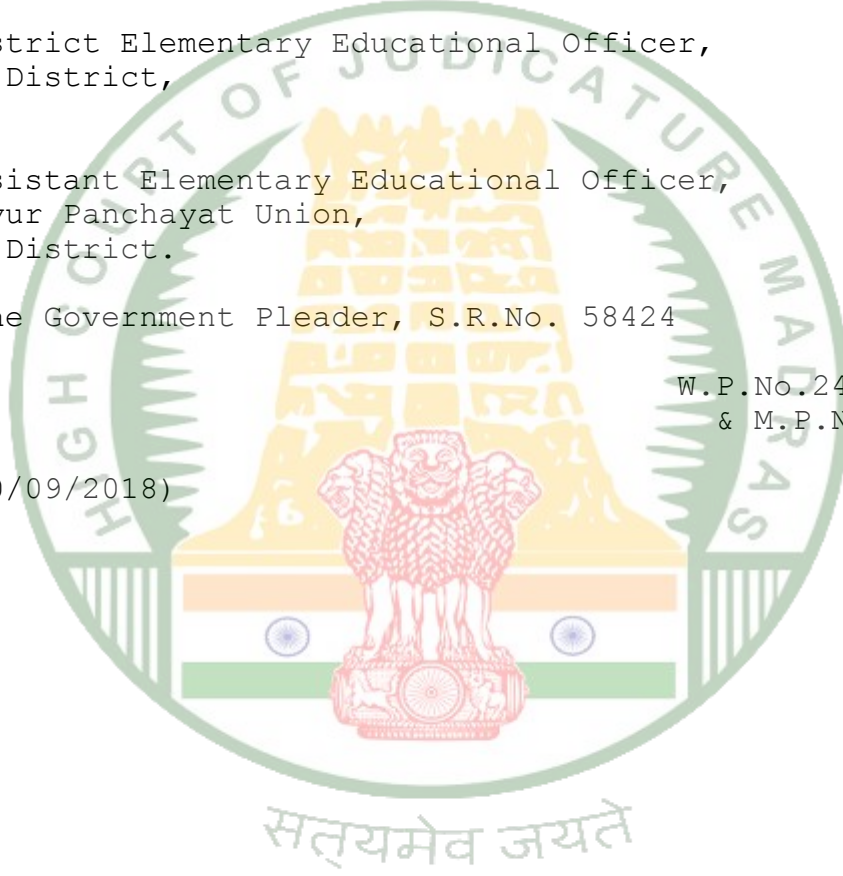
To

1. The Government of Tamil Nadu,
rep. by its Secretary,
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Chennai - 600 006.
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+1cc to the Government Pleader, S.R.No. 58424

W.P.No.2430 of 2008
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GN(10/09/2018)



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