

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2018

CORAM :

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No. 19913 of 2007
and M.P.Nos.1 & 2 of 2007 and 1 of 2008

D.Ramasamy

...Petitioner

Versus

- 1.The Director of Elementary Education,
DPI Campus,
College Road,
Chennai-6.
2. The District Elementary Educational Officer,
Nagapattinam District,
Nagapattinam..
3. The Assistant Elementary Educational Officer,
Vedaranyam,
Vedaranyam Taluk,
Nagapattinam District.
- 4.D.Vetrivel,
- 5.V.Thiagarajan,
- 6.G.Paranthaman,
- 7.C.Vadivelu.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the Seniority List of Middle School Headmasters of Vedaranyam Union, and the consequential panel as on 01.01.2007 in so far as the respondent 4 to 7 are concerned, approved by the second respondent on 23.04.2007 and quash the same.

For Petitioner : Mr. V.Kasinathabharathi

For Respondents : Mr. P.Raja, (For RR1 to 3)
Government Advocate.

Ms.Aananthi (for R4 to R7)

O R D E R

This writ petition has been filed challenging the Seniority List of Middle School Headmasters of Vedaranyam Union and the consequential panel as on 01.01.2007 in so far as the respondent 4 to 7 are concerned, approved by the second respondent on 23.04.2007.

2.The petitioner is a Diploma Holder in Teachers Education and was appointed as Secondary Grade Teacher on 20.07.1998. Subsequently, he was transferred to Vedaranyam Union on 17.06.1992. Thereafter, on 03.06.2002, the petitioner was promoted as Headmaster in the Government Elementary School of Kovilkulam in the year 2005 and the said school has been upgraded as Middle School. While so, during the year 2002 itself, a promotion panel for the middle school has been prepared by the third respondent and the respondents 4 to 7 have been placed behind the petitioner in the Seniority List. Against which no appeal has been preferred by the respondents 4 to 7.

3.The respondents 4 to 6 are B.Ed., degree holders and appointed in the place of Secondary Grade Teachers. At the time of appointment, the aforesaid teachers have given an undertaking letter stating that they will not claim any seniority in the place of Secondary Grade, which is a usual proceedings followed by the respondent authorities, while appointing the graduate teachers in the place of Secondary Grade teachers. In the above proceedings, Rule 19(c) clearly states that once the graduate person has given an undertaking not to claim for any promotion in future, then that person has no right to claim the promotion till his retirement. Thereafter, a panel for the Headmaster of Middle school has been prepared in the year 2002 till 2007 and no appeal has been preferred by any of the aggrieved persons.

4.The Tamil Nadu State and Subordinate Service Rules 35(f) clearly states that any application for the revision of seniority of a person in service, class, category or Grade shall be submitted to the appointing authority within a period of three years from the date of appointment to such service, class, category or grade or within a period of three years from the date of order fixing the seniority as the case may be. Any application received after the said period of three years, shall be summarily rejected. Already seniority panel was prepared till the year 2007 and no person has objected with regard to the above said seniority list. However, without any appeal the respondent revised the seniority list and published the fresh seniority list on 01.01.2007. Against which the petitioner has made a representation to the Authority on 27.03.2007. Since, the

petitioner's representation was not considered by the Authorities, the present writ petition came to be filed with the aforesaid prayer.

5.Mr.V.Kasinathabharathi, the learned counsel appearing for the petitioner would submit that at the time of initial appointment, these contesting respondents submitted a letter stating no objection and they will not claim any seniority in the place of Secondary Grade Teachers, over and above the petitioner. Contrary to that the impugned Seniority List of Middle School Headmasters was published on 01.01.2007, without notice to the petitioner and the seniority is against the Rule 35(f) of the Subordinate Service Rules. Accordingly, he prayed for allowing the petition.

6.Per contra, the learned Government Advocate appearing for respondents 1 to 3 has submitted a counter filed by the third respondent. The sum and substance of the arguments are as follows:

Every Calendar year, the Panchayat Union School Teachers Seniority list and panel is released prior to every 1st January. According the Additional Assistant Elementary Educational Officer and Assistant Elementary Educational Officer to frame seniority list and panel for each and every year and they will consider the seniority and qualification, date of joining in the service and date of joining in the union (person who have transferred from the other Unions). After considering the above, the seniority of the Teachers will be prepared and the seniority list and the panel issued from 2003 to 2006 were widely accepted by the teachers already listed in the seniority list but now there is an expectation of posting new middle school B.Ed Headmasters by promoting the senior most B.Ed qualified primary School Headmasters. So, in view of the about more than ten appeals have been received to rectify the seniority list and panel. Accordingly, the respondent authorities were forced to re-frame the seniority list and the panel as advised by the District Elementary Officer, Nagapattinam and four members of the teachers from various Teachers' Associations were utilized to re-frame the seniority list and the panel. After considering the seniority and qualification, date of joining in the union on transfer from other union, the revised seniority list was published on 01.01.2007 and the same was approved by the District Elementary Educational Officer on 23.04.2007. Challenging the above said revised seniority list and panel, the present writ petition has been filed.

7.The learned Government Advocate appearing for the State would further submit that the purpose of preparation of panel in the proceedings dated 15.11.2001 clearly stated that the

graduates of B.Ed., holders itself instructed very clearly that they are appointed like Secondary Grade Teachers. He would further state that the contesting respondents 4-7 appointed in the present union i.e., V.Thiagarajan in the Vedaranyam Union on 17.06.1991, G.Paranthaman in 17.06.1991, M.Venkatesan in 17.06.1992 and C.Vadivelu in 19.06.1991, whereas the petitioner D.Ramasamy was transferred from Middle School, Kovil Kulam to Vedaranyam Union on 17.06.1992. Though the petitioner can exercise the option of amending the seniority in the present union, accordingly under the wrong presumption, he was placed below respondents 4 to 7. However, on the appeal received from the authorities with regard to considering the next level of promotion, the authorities forced to revise the seniority list. Admittedly, the contesting respondents were appointed in the Secondary Grade prior to the petitioner's appointment in the Vedaranyam Union and they were appointed in the year 1991. Considering the date of appointment and date of transfer, he was placed below the contesting respondents and the authorities/respondents 1-3, considering all the aspects published the revised seniority list. If the petitioner is aggrieved he could have very well approached the authority by way of adjudication. Without doing so approaching this Court is not maintainable.

8. Considered the rival submissions made by the learned counsels on either side and perused the records.

9. On perusal of the records and considering the submissions made by the learned counsel for the petitioner as well as respondents and on considering the affidavit and counter, it reveals that the petitioner is appointed in Nagapattinam Union. Thereafter, he was transferred on his own in the present Union on 17.06.1992, prior to the impugned seniority list, the petitioner was placed above the respondents 4-7. Accordingly, promotion was given to the petitioner on 03.07.2002. Thereafter, the aggrieved persons filed an appeal in the year 2005. During that time 10 appeals had been received by the respondent authority with regard to the seniority list and the panel. In order to re-frame the seniority list and rectify the mistake, senior most teachers were called for assistance to form a committee for preparation of the revised seniority list. Accordingly, more than 20 members participated in the meeting conducted by the District Educational Officer, Nagapattinam and upon receipt of the valuable suggestions received from the senior most teachers, decided to re-frame the seniority list and panel after considering the seniority, educational qualification and seniority of transfer to the present union from other union. Accordingly, the seniority and panel list was re-framed. Even on perusal of the revised seniority list, the petitioner had joined the Vedaranyam Union on 17.06.1992. However, the

contesting respondents have joined in the year 1991 prior to the petitioner.

10. In view of the above, I do not find any error in the impugned seniority list and the panel passed by the respondent Authorities. Hence, I am not inclined to interfere with the order passed by the authority. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

To

1. The Director of Elementary Education,
DPI Campus, College Road, Chennai-6.
2. The District Elementary Educational Officer,
Nagapattinam District,
Nagapattinam..
3. The Assistant Elementary Educational Officer,
Vedaranyam,
Vedaranyam Taluk,
Nagapattinam District.

+1cc to Government Pleader SR.No.51928

W.P. No. 19913 of 2007
and

M.P.Nos.1 & 2 of 2007 and 1 of 2008

GMV (05/10/2018)

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