



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.9244 of 2017
and
CONT P(MD) .No.1150 of 2017
in
W.M.P. (MD) .No.7023 of 2017

Valli ... Petitioner

Vs.

- 1.The District Elementary Educational Officer,
Tirunelveli.
2. The Additional Assistant Elementary Educational Officer,
A.E.E.O. Office, Kaladadu Union,
Tirunelveli.
3. Head Mistress Padmaneri Panchayat Union Primary School,
Kalakadu Union, Padmaneri,
Tirunelveli District. ...Respondents

Prayer :Writ Petition filed under Article 226 of the Constitution of India, in the nature of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent vide Na.Ka.474/A2/2015 dated 29.06.2015 and the consequential panel list prepared by the second respondent for the year of 2015 to 2017 for the post of Middle School Headmistress and may consequently to direct the first respondent to appoint this petitioner as Middle School Headmistress in Panchayat Union Middle School Erwadi Central-Kalakadu Union or any other Middle School from 01.06.2017.

CONT P(MD) .No.1150 of 2017

Valli ... Petitioner/Petitioner

Vs.

- 1.Ravindran Nair, (In-charge),
The District Elementary Educational Officer,
Tirunelveli.

<https://hcservices.ecourts.gov.in/hcservices/>

- 2.Essakimuthu,
The Additional Assistant Elementary Educational Officer,
A.E.E.O. Office, Kaladadu Union,
Tirunelveli.



3.P.JemilaBanu,
Head Mistress Padmaneri Panchayat Union Primary School,
Kalakadu Union, Padmaneri,
Tirunelveli District.

...Contemnors/Respondents

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Prayer: Contempt Petition filed under Section 11 of Contempt of Court Act, 1971, to punish the Contemnors/Respondents for their intentional and willful disobedience of Court's Order passed in W.M.P.(MD).No.7023 of 2017 in W.P.(MD).No.9244 of 2017 dated 25.05.2017.

Prayer in WMP(MD). 7023/ 2017 :

To pass an order of Ad Interim Injunction restraining the 1st Respondent from appointing the 3rd Respondent as Middle School Head Mistress pending disposal of this Writ Petition.

Prayer in WP(MD). 9244/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 2nd respondent vide Na.Ka.474/A2/2015 dated 29.06.2015 and the consequential panel list prepared by the 2nd respondent for the year of 2015 to 2017 for the post of Middle School Head Mistress and may consequently to direct the 1st Respondent to appoint this Petitioner as Middle School Head Mistress in Panchayat Union Middle School Ervadi Central - Kalakadu Union or any other Middle School from 01.06.2017.

In both Petitions

For Petitioner : Mr.K.P.Narayanakumar
For Respondents :MrJ.Gunaseelan Muthiah for R1 & R2
Additional Government Pleader
: Mr.V.Paneer Selvam for R3

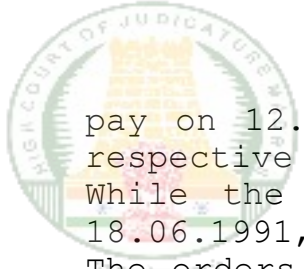
ORDER

Heard Mr.K.P.Narayanakumar, learned counsel appearing for the petitioner and Mr.Gunaseelan Muthiah, learned Additional Government Pleader, appearing for the respondent's.

2.The petitioner questions the order dated 29.06.2015 passed by the second respondent herein placing the third respondent herein at Serial No.3 in the promotion panel for the post of Middle School Headmaster in Kalakadu Union. The petitioner has been placed at serial No.5. The petitioner seeks the consequential relief of appointment as Middle School Headmistress. The respective service details of both the petitioner and third respondent are matters of record and there is no controversy in that regard.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The petitioner was appointed as Secondary Grade Teacher on consolidated pay on 07.12.1990 in Valliyor Union. The third respondent was appointed as Secondary Grade Teacher on consolidated

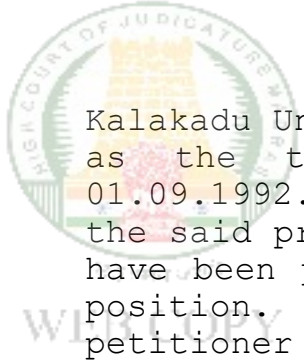


pay on 12.12.1990 in Melaneelathanallur Union. Both had left the respective unions and joined Kalakadu Union on different dates. While the third respondent got transferred to Kalakadu Union on 18.06.1991, the petitioner joined in Kalakadu Union on 10.10.1991. The orders of regularization were made with effect from 01.09.1992. In the said order of regularization dated 01.09.1992, issued by the Assistant Education Officer, Kalakadu Union, the petitioner was placed at serial No.4, while the third respondent herein figured in said serial No.5. Subsequently, from the said post of Secondary Grade Teacher, both the petitioner as well as the third respondent were promoted as Elementary School Headmaster on 11.07.2005. The promotion panel was prepared on 01.01.2015. The petitioner was placed at Serial No.3, where as the third respondent was placed at serial No.4 in the said list. The third respondent herein appears to have made objections. Pursuant to the same, there was a revision of the respective positions. That is how, in the impugned proceedings dated 29.06.2015 as well as in the subsequent proceedings dated 01.01.2007, the third respondent was placed before the petitioner. An interim order was passed in this writ petition and complaining that there has been violation of the same, Cont.P.(MD).No.1150 of 2017 came to be filed. Since the main writ petition is being taken up for disposal, I do not propose to go into the merits of the contempt proceedings.

4.The learned counsel appearing for the petitioner made considerable emphasis on the fact that the petitioner was placed above the third respondent originally.

5.Per contra, the learned counsel appearing for the third respondent would contend that while the petitioner may be senior to the third respondent and she may have been appointed earlier as secondary grade teacher, what should be decisive in this case is that the third respondent had joined in Kalakadu Union on 18.06.1991 prior to writ petitioner joining in the said Union on 10.10.1991. According to the learned counsel for the second respondent, the date of joining in Kalakadu Union alone would be deciding factor. He also would contend that her seniority position got settled long back and that the same cannot be un-settled at this point of time.

6.The learned Additional Government Pleader appearing for the respondents 1 and 2 would also strongly support the stand of the third respondent herein. A mere look at the pleadings of the official respondents as well as the third respondent would show that they had approached the entire issue by taking into account the fact that the third respondent joined in Kalakadu union prior to the petitioner. Admittedly, both the petitioner as well as the third respondent were appointed only on consolidated pay in the year 1990. When a person appointed on consolidated pay gets transferred from one Union to another, the question of being assigned certain seniority position in the transferred place will not arise at all. Issues of seniority and promotion will arise only when a person gets appointment on regular basis. Such status accrued to the petitioner as well as the third respondent only on 01.03.1993. By virtue of the proceedings issued by the Assistant Educational Officer,



Kalakadu Union, dated 01.03.1993, the services of petitioner as well as the third respondent stood regularised with effect from 01.09.1992. The petitioner was placed above the third respondent in the said proceedings dated 01.03.1993. The writ petitioner ought to have been put in notice if there was any proposal to downgrade her position. It is not the case of the official respondents that the petitioner was ever communicated with any seniority list. Admittedly, both the petitioner as well as the third respondent were promoted to the post of Elementary School Headmistress on the same date i.e. on 11.07.2005. Now the question is whether the petitioner, who had been placed above the third respondent is eligible for promotion to the post of Middle School Headmaster. Since I am of the view that the rights of the petitioner as well as the third respondent got crystallized on 01.03.1993, the fact that the third respondent got transferred to Kalakadu Union before the petitioner joined in the said Union is of no consequence. This factual position was cleared when the authority issued regularization order on 01.03.1993. The rankings assigned therein cannot be allowed to be tinkered with 22 years later. I therefore quash the proceedings impugned in this Petition.

7.The Writ Petition stands allowed. No costs. The contempt petition stands closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

1.The District Elementary Educational Officer, Tirunelveli.

2.The Additional Assistant Elementary Educational Officer,
A.E.E.O. Office, Kaladadu Union, Tirunelveli.

3.The Head Mistress Padmaneri Panchayat Union Primary School,
Kalakadu Union, Padmaneri, Tirunelveli District.

+One cc to Mr.K.P.Narayanakumar, Advocate, SR.No.40942

+2ccs to Mr.V.Panneerselvam, Advocate, SR.Nos.41002 and 41003

+One cc to The Special Government Pleader, SR.Nos.41497 and 41498

tsg

RL/8C/4P/SKN/RSK/SAR1/1/2/2018

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