



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.08.2018

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN
W.P. (MD) No.4331 of 2011
and
M.P. (MD) .No.2 of 2011

Kesiya Evanjelin

... Petitioner

Vs.

1.The Director of Elementary Education,
College Road, Nungambakkam,
Chennai-600 006.

2.The District Elementary Education Officer,
Trichy.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent in his proceedings Mu.Mu.No.21691/L3/2006, dated 08.10.2007 quash the same and consequently, direct the respondents to revise the scale of pay of the petitioner on par with her junior namely, S.Savariraj with effect from the date of higher pay given to him with all monetary and service benefits.

For Petitioner : M/s.P.Kalaiyarasi Bharathi
For R1 & R2 : Mrs.S.Srimathi
Special Government Pleader

O R D E R

The petitioner has come forward with the present prayer seeking to quash the proceedings of the first respondent in Mu.Mu.No.21691/L3/2006, dated 08.10.2007 and consequently, direct the respondents to revise the scale of pay of the petitioner on par with her junior namely, S.Savariraj with effect from the date of higher pay given to him, with all monetary and service benefits.

2.The case of the petitioner is that she was appointed as Secondary Grade Teacher in the year 1972 and promoted to the post of Elementary School Headmistress on 21.03.2001. Pursuant to the order of the Tamilnadu Administrative Tribunal, dated 11.01.2001 passed in O.A.No.9813 of 1998, she retired from service on 30.04.2001. The petitioner was denied promotion and her Junior Thiru.S.Savariraj, was promoted on 25.02.1986. Therefore, the petitioner filed an appeal for redressal of her grievance. When the said appeal was pending, the petitioner was promoted to the post of Elementary School Headmistress on 30.06.1997 and thereafter, the petitioner was compelled to give a letter of relinquishment on 30.06.1997



relinquishing her promotion.

3. According to the petitioner, as her Junior Thiru.S.Savariraj was promoted by overlooking the petitioner on the higher scale of pay, he went on voluntary retirement on 30.06.2003. As he left the service, the petitioner's promotion should have been considered with effect from 01.06.1988. The fact that the junior has been promoted is not in dispute. The petitioner's claim that re-fixation of seniority and to pay the due from the date of re-fixation, cannot be deprived to the petitioner. Hence, she prayed that the impugned order dated 08.10.2007, depriving the benefits of promotion passed in G.O.Ms.No.202, dated 24.09.2008, rejecting the request of the petitioner has got to be interfered with and the respondent shall re-fix the seniority, placing the petitioner above the junior and submit the proposal with effect from the date on which the petitioner was promoted with all monetary and other benefits.

4. The respondents have filed a counter affidavit. It is not disputed by the respondents that the petitioner has relinquished the promotion and hence, her junior Thiru.S.Savariraj, was promoted to the post of Headmaster in the higher scale of pay with effect from 01.06.1988. Hence, the petitioner was not eligible to be considered for promotion with effect from 01.06.1988 and therefore, she preferred an appeal. The petitioner has also relinquished her right of promotion. Once, the promotion is relinquished by the petitioner, her juniors have to be promoted. The petitioner cannot claim any seniority and re-fixation of pay. It is stated that the petitioner is not entitled to get any relief in view of relinquishment.

5. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

6. It is not in dispute that the petitioner joined the service in the year 1972 and she was not considered for promotion to the post of Headmistress. As her junior was considered for promotion, the petitioner has also relinquished the promotion from 30.06.1997. It is very clear that if the promotion is relinquished by a person, then he/she is not eligible for promotion for a period of three years. Hence, the first respondent has rightly rejected the request of the petitioner and she has not got any benefits. Hence, I am of the view that the impugned order, dated 08.10.2007 passed by the first respondent cannot be said to be erroneous, which does not call for any interference. Hence, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/



To

1.The Director of Elementary Education,
College Road, Nungambakkam,
Chennai-600 006.

2.The District Elementary Education Officer,
Trichy.

4C + 1 CC TO M/s.P.Kalaiyarasi Bharathi, ADVOCATE IN SR No.79378.

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DS SV SAR-4 16.10.2018 3P/4C

W.P. (MD) No.4331 of 2011

16.08.2018