

IN THE HIGH COURT OF JUDICATURE AT MADRAS

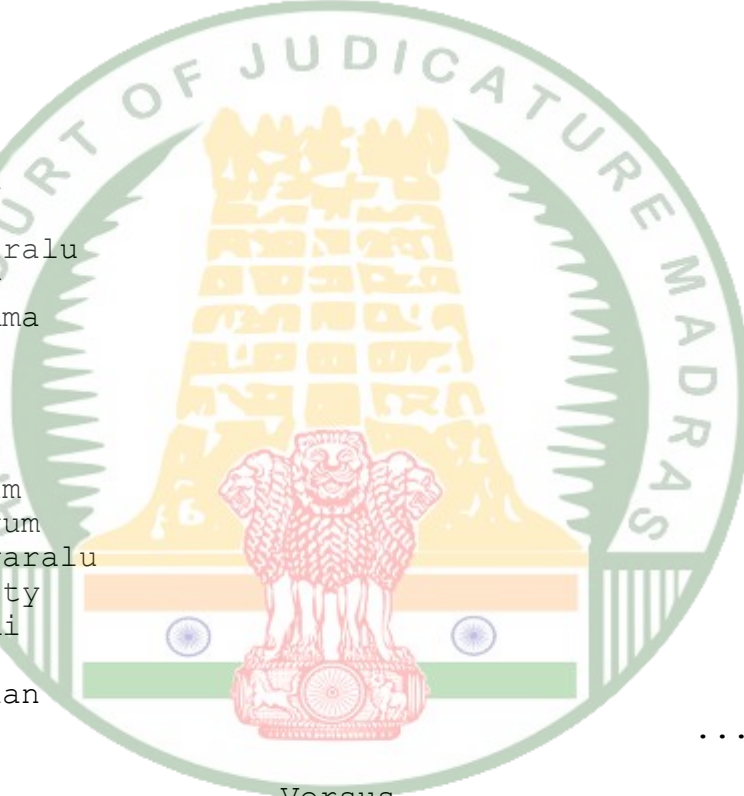
Dated : 15.11.2019

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

W.P.No.13192 of 2013
and W.P.M.P.Nos.1, 3 & 4 of 2013
and W.M.P.No.31379 of 2019

- 1.N.Umapathy
- 2.R.Jayasankar
- 3.V.Venkatesan
- 4.P.Venkatesan
- 5.V.Kotres
- 6.K.S.Murugaiah
- 7.V.S.Lakshmi
- 8.D.Venakateswaralu
- 9.K.S.Ganapathy
- 10.N.M.Govindamma
- 11.K.S.Gurappa
- 12.A.Latha
- 13.V.Ramesh
- 14.A.Yuvaraj
- 15.S.Thajumbegum
- 16.S.Sahanezbegum
- 17.D.Venkateshwaralu
- 18.A.Gopal Chetty
- 19.T.Varalakshmi
- 20.C.Kumar
- 21.M.Murali Mohan



...Petitioners

Versus

- 1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department (Minority) Department,
Secretariat, Chennai - 600 009.
- 2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.

3.The District Elementary Educational Officer,
Thiruvallur.

4.The Additional Assistant Elementary Educational Officer,
Pallipattu Union, Thiruvallur District.

5.M.Suganthi

6.S.G.Sivakumar

(Respondents 5 & 6 were impleaded vide order dated 22.07.2013
made in M.P.No.2 of 2013)

7.C.C.Pappi

8.C.M.Devarajan

9.S.Amirthavalli

10.M.S.Dhanalakshmi

11.E.K.T.Kavitha

12.K.R.Kalyani

13.O.A.Venkatesan

(Respondents 7 to 13 were impleaded vide order dated 24.10.2019
made in W.M.P.No.24959 of 2019)

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to promote the petitioners to the post of Elementary School Head Masters in Tamil Medium/Telugu Medium/Bilingual Schools by including their names in the appropriate panel based on their seniority and eligibility by preparing combined seniority list of both Tamil and Telugu Medium Teachers, with consequential and other attendant benefits including retrospective promotion on par with juniors with arrears of salary and other benefits, within the time frame to be fixed by this Court.

For Petitioners : Mr.G.Sankaran

For Respondents - 1 to 4 : Mr.K.Karthikeyan,
Government Advocate

Respondents - 5 to 13: Mr.L.Chandrakumar

O R D E R

The relief sought for in the present writ petition is to direct the respondents to promote the petitioners to the post of Elementary School Head Masters in Tamil Medium/Telugu Medium/Bilingual Schools by including their names in the appropriate panel based on their seniority and eligibility by preparing combined seniority list of both Tamil and Telugu Medium Teachers, with consequential and other attendant benefits including retrospective promotion on par with juniors with arrears of salary and other benefits, within the time frame to be fixed by this Court.

2. It is the case that the petitioners are working as Secondary Grade Teachers (Telugu) in Telugu Medium Schools and Bilingual Schools in Pallipattu Panchayat Union, Thiruvallur District. They have passed the Second Class Language Test in Tamil conducted by TNPSC and eligible for promotion to the post of Elementary School Head Master in both Tamil and Telugu Medium Schools.

2.1 The services of Panchayat Union Schools are covered by Special Rules for Tamil Nadu Elementary Educational Subordinate Services notified in G.O.Ms.No.1383, Education Department, dated 23.08.1988. Rule 9 says that each Panchayat Union is a unit for the purpose of seniority, appointment and promotion; Rule 5 deals with appointment and institution for minority language; Rule 6(a) prescribes the qualification relating to age and Rule 6(b) prescribes the qualifications. As per the Special Rules, a Telugu Medium Teacher is eligible for promotion to the post of Head Master on passing the Second Class Language Test in Tamil.

2.2 The second respondent issued circular vide proceedings in Na.Ka.No.5939/ED1/2001 dated 15.11.2001 stating that the teacher has to possess Tamil as Mother Tongue ought to have studied Tamil in High School or to have passed Second Class Language Test (Full Test) in Tamil conducted by TNPSC and only such persons who have qualified in any one of the above three

conditions would be eligible for promotion as Elementary School Head Master. It was also made clear in the said circular that in respect of the promotion to the post of Head Master of Elementary Schools in Tamil Medium or Bilingual Medium Schools, and common seniority list of Elementary Secondary Grade Teachers has further emphasized as per the proceedings of the Director of Elementary Education, Chennai in Pro.Na.Ka.No.24748/A3/2007 dated 26.12.2007.

2.3 Thereafter, the second respondent issued proceedings dated 15.02.2008 in Na.Ka.No.29826/L3/2008 by which the earlier circular instructions issued in the proceedings dated 26.12.2007 had been cancelled and it is stated that Telugu Medium Teachers though passed in Second Class Tamil Language Test, they are not eligible for promotion to the post of Head Master in Tamil Medium Schools and there must be separate panel for each Tamil Medium and Telugu Medium Schools and only in respect of Bilingual School there should be a common seniority.

2.4 Prior to the issuance of proceedings dated 15.12.2008, the panel for promotion to the post of Head Master of Elementary Schools (Tamil Medium) in Pallipattu Panchayat Union was prepared by following combined seniority list by including the names of Telugu Medium Secondary Grade Teachers who passed Second Class Tamil Language Test. However, after the said proceedings, the respondents 3 & 4 started preparing separate panel for Tamil Medium Schools without including the names of Telugu Medium Teachers like the petitioners and thereby, the petitioners are deprived of their promotional opportunity in spite of their eligibility and seniority.

2.5 A batch of Writ Petitions in W.P.Nos.1416, 11340, 21370 & 21380 of 2011 were filed before this Court, challenging the proceedings of the second respondent herein dated 15.12.2008 and every individual proceedings of the respondents therein and consequently, to draw a common and combined seniority list/panel of Secondary Grade Teachers of both Tamil and Telugu Medium and to give promotion on that basis to the post of Elementary School Head Master and the same was disposed of by this Court vide order dated 29.06.2012 holding that the petitioners therein are eligible for inclusion of their names in the panel in respect of Tamil Medium Schools as per Rule 6(b)(2) of Special Rules as they have passed the Second Class Language Test in Tamil and therefore, it was directed to prepare a common seniority list and panel for promotion to the post of Elementary School Head Master in respect of Tamil Medium Schools.

2.6 Subsequent to the aforesaid order of this Court, a common seniority list has been prepared in respect of R.K.Pettai Union, Thiruthani Union, Gummidipoondi Union of Thiruvallur District, whereas, in respect of Pallipattu Panchayat Union, the respondents 3 & 4 are preparing the seniority list and panel separately for Tamil Medium and Telugu Medium School and the names of the petitioners are not included in the panel prepared for Tamil Medium Schools.

2.7 In view of the preparation of panel every year separately for Tamil Medium Schools by not including the names of Telugu Medium Teachers like the petitioners, they are deprived of their promotion. On the other hand, number of juniors were given promotion over looking them. In spite of repeated representations, the respondents 3 & 4 have not prepared seniority list and panel as on 01.01.2013 by not including the names of the petitioners for Tamil Medium Schools. Hence, left with no other alternative, the petitioners have filed the present writ petition before this Court.

3. The learned counsel for the petitioners submitted that the petitioners are fully qualified and eligible for promotion to the post of Elementary School Head Masters in Tamil Medium/Telugu Medium/Bilingual Schools, however, they were not yet given promotion by the respondents. In spite of several representations made by the petitioners, the respondents 3 & 4 have not yet taken any steps to include the names of the petitioners in the appropriate panel based on their seniority and eligibility by preparing combined seniority list of both Tamil and Telugu Medium Teachers. He also produced a copy of the order dated 17.03.2010 passed in W.P.No.9684 and 1019 of 2009 before this Court.

4. The learned Government Advocate appearing for the respondents 1 to 4 submitted that in paragraph Nos.8 & 9 of the counter affidavit, the third respondent has stated as follows:

"8. I respectfully submit that as per the Special Rules, the secondary grade teachers who are working in Tamil Medium Schools are eligible for promotion to the post of Primary School Headmaster in Tamil Medium Primary Schools as well as in bi-lingual schools as per the combined seniority. On the other hand, the Telugu Medium Secondary Grade Teachers, who are working in Telugu Medium Schools are eligible for promotion in bi-lingual elementary schools as per the combined seniority. Therefore, a separated seniority list for the Tamil and Telugu Medium teacher is being

drawn in addition to the combined seniority list.

9. I respectfully submit that in the State of Tamil Nadu, at Pallipattu Panchayat Union, Thiruvallur District, there are two Assistant Elementary Educational Officers functioning, one is designated as AEEO (Tamil) for Tamil Schools and the other being AAEEEO (Telugu) for Telugu and Bilingual Schools. Similarly, in Dharmapuri and Krishnagiri District, there are bilingual schools, which follow separate seniority list for Tamil and Telugu Secondary Grade Teachers for promotion to the post of Headmaster of Elementary Schools. There cannot be any arbitrariness in drawing such separate seniority list. As mentioned above, teachers who studied in Telugu Medium cannot be expected to effectively discharge the post of Headmaster of Elementary Education inasmuch as it involves effective interaction in Tamil with various other departments in the State. In other words, it at least requires fluent writing in Tamil and that cannot be expected from the writ petitioners because their mother tongue is only Telugu. In any event, Secondary Grade Teachers in Telugu will not lose their opportunity to get promoted because there are 24 Pure Telugu Schools and 11 Bilingual Schools in Pallipattu Union. In these schools, the petitioners could be accommodated on promotion. Under those circumstances, the petitioners cannot have any grievance in drawal of separate seniority for both Tamil and Telugu Secondary Grade Teachers."

4.1 The learned Government Advocate appearing for the respondents 1 to 4 would contend that the petitioners herein have not satisfied the other conditions for the inclusion of their names in the panel as stated in the order passed by this Court in W.P.Nos.1416 of 2011 etc., batch.

5. The learned counsel appearing for the respondents 5 to 13 submitted that the petitioners' name will be included in the combined seniority list prepared for promotion to the post of Elementary School Head Masters in Tamil Medium/Telugu Medium/Bilingual Schools and the petitioners will not lose their opportunity to get promoted because there are 24 Pure Telugu Schools and 11 Bilingual Schools in Pallipattu Panchayat Union, Thiruvallur District as stated by the third respondent in the counter affidavit.

6. The statement made by the learned counsel appearing for the respondents 5 to 13 is recorded.

7. Considering the submission made by the learned counsel appearing for the respondents, this Court is of the view that the present writ petition is not maintainable since the petitioner has approached this Court by filing the present writ petition at the premature stage itself. Hence, this Writ Petition is liable to be dismissed.

8. Accordingly, this Writ Petition is dismissed. If the petitioners have any grievance, liberty is granted to them to make a representation before the respondents and the same shall be considered by the respondents in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mrr
To

- 1.The Secretary to Government,
School Education Department (Minority) Department,
Secretariat, Chennai - 600 009.
- 2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
- 3.The District Elementary Educational Officer,
Thiruvallur.
- 4.The Additional Assistant
Elementary Educational Officer,
Pallipattu Union, Thiruvallur District.

+1 cc to Mr.G.Sankaran Advocate sr95523
+1 cc to Mr.T.M.Karthikeyan Advocate sr95348
+1 cc to Mr.L.Chandrakumar Advocate sr95349

W.P.No.13192 of 2013

aa20/11/2019