

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.11.2019

Coram

The Honourable Mr. Justice D.KRISHNAKUMAR

W.P.No.15098 of 2015, M.P.NO.2 of 2015
and M.P.No.3 of 2015
and W.M.P.No.27733 of 2016

P.Chakravarthy

...Petitioner

Versus

- 1.The Joint Director (Personnel),
School Education,
DPI Campus,
College Road,
Chennai - 600 006.
- 2.The Chief Educational Officer,
O/o. The Chief Educational Office,
Villupuram.
- 3.The Headmaster,
Government Higher Secondary School,
Peruvalur - 604 208,
Senji Taluk,
Villupuram District.

...Respondents

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 first respondent herein in Na.Ka.No.97975/C3/E2/2014, dated 17.03.2015 and quash the same and consequently, direct the respondent herein to include the name of the petitioner in the panel for promotion to the post of B.T.Assistant as on 01.01.2002 instead of 01.01.2003 and consequently, include the name of the petitioner in the panel for promotion to the post of PG Assistant (English) as on 01.01.2015 at Serial No.14 above his immediate junior and select and appoint the petitioner to the post of PG Assistant (English) as on 01.01.2015 with all monetary and service benefits.

For Petitioner : Ms.Dakshayani Reddy
For Respondents : Mr.K.Karthikeyan,
Government Advocate

O R D E R

The relief sought for in the present writ petition is to call for the records of the first respondent herein in Na.Ka.No.97975/ C3/E2/2014, dated 17.03.2015 and quash the same and consequently, direct the respondent herein to include the name of the petitioner in the panel for promotion to the post of B.T.Assistant as on 01.01.2002 instead of 01.01.2003 and consequently, include the name of the petitioner in the panel for promotion to the post of PG Assistant (English) as on 01.01.2015 at Serial No.14 above his immediate junior and select and appoint the petitioner to the post of PG Assistant (English) as on 01.01.2015 with all monetary and service benefits.

2. It is the case that the petitioner was originally appointed to the post of Secondary Grade Teacher with effect from 08.10.1988 and he completed his probation as on 07.10.1990. The second respondent vide proceedings in P.M.No.2117/A2/94, dated 14.06.1994 declared the probation of the petitioner.

3. As per the seniority, the petitioner was eligible for promotion to the post of B.T.Assistant as on 01.01.2002. But his name was not included in the panel for promotion as on 01.01.2002. Hence, the petitioner vide letter, dated 10.06.2002, requested the 3rd respondent for inclusion of his name in the panel for promotion as on 01.01.2002 and his request was forwarded by the third respondent vide proceeding in Na.Ka.No.17/2002 dated 10.06.2002. The same was also accompanied with the proper format in which the application has to be given for inclusion. Subsequently, the petitioner gave a representation vide Letter dated 12.06.2002 for inclusion of his name in the panel for promotion. Again, the third respondent vide proceedings in Na.Ka.No.60/A2/2002, dated 17.06.2002 forwarded the petitioner's representation dated 12.06.2002.

4. The second respondent vide proceedings in Na.Ka.No.60/A2/2002 dated 17.06.2002 sent the list of individuals whose names were not included in the panel for promotion as on 01.01.2002 to the first respondent. The name of the petitioner finds place at Serial No.6. Though the petitioner's name was recommended for inclusion, the same was not included in the panel for promotion. Hence, the petitioner approached the Hon'ble Chief Minister's Special Cell. The Director of School Education replied to the petitioner's complaint by addressing a

letter to the Special officer of the Hon'ble Chief Minister's Special Cell that the reason for non-inclusion of the petitioner's name in the panel as on 01.01.2002 is that the petitioner's probation was not declared as on 01.01.2002.

5. Despite several requests were made for inclusion of petitioner's name in the panel for promotion as on 01.01.2002 for promotion to the post of B.T.Assistant (Mathematics), no response was forthcoming. Hence, the petitioner filed a writ petition in W.P.No.27961 of 2014 before this Court seeking to direct the first respondent herein to dispose of his representation dated 11.12.2012 by including his name in the panel for promotion to the post of B.T.Assistant (Mathematics) as on 01.01.2002 instead of 01.01.2003 and consequently promote him to the post of P.G.Assistant/Headmaster of High School from the date on which his immediate junior was promoted within a time frame to be fixed by this Court. By order dated 27.10.2014, this Court disposed of the said writ petition with a following direction:

"3. Considering the limited scope of the prayer sought in this writ petition, this writ petition is disposed of by directing the respondent No.1 to consider and pass orders on the representation of the petitioner dated 11.12.2012, within a period of six weeks from the date of receipt of a copy of this order. No costs."

6. Subsequent to the aforesaid order of this Court, the first respondent sought for clarification from the second respondent as to whether the petitioner was eligible for inclusion in the panel for promotion as on 01.01.2002 and further sought for clarification as to the position in which the petitioner would be included in the panel for promotion as on 01.01.2002. However, the first respondent vide proceedings in Na.Ka.No.97975/ C3/E2/2014 dated 17.03.2015, rejected the petitioner's request on the ground that the application for revision of seniority of a person in a service, whose class, category, grade shall be submitted to the appointing authority within a period of three years from the date of appointment to such service or within a period of three years from the date of order fixing the seniority. But the petitioner had given his request for revision only on 11.12.2012. Aggrieved by the proceedings of the first respondent, the petitioner has filed the present writ petition for the relief stated supra.

7. The learned counsel for the petitioner submitted that the petitioner had submitted the application for revision of seniority within a period of three years from the date of order fixing the seniority as per Rule 35(f) of the Tamil Nadu State

and Subordinate Service Rules. However, the petitioner's name was not included in the panel for promotion as on 01.01.2002 by the first respondent due to the mistake of fact. She further submitted that admittedly, the petitioner's probation was completed as early as on 07.10.1990 itself. She therefore prayed that the present writ petition may be allowed.

8. The learned Government Advocate appearing for the respondents would submit that the petitioner's name was included in the panel of the year 2003 and subsequently, he was promoted as B.T.Assistant (Maths) on 01.01.2003. He would further submit that after a lapse of more than nine years from the date of completion of promotion, the petitioner approached the Hon'ble Chief Minister's Special Cell and the first respondent vide an application, dated 11.12.2012 seeks revision of his seniority on par with his immediate junior and also seeks to hold his seniority in the cadre of B.T.Assistant with effect from 01.01.2002, for which, the first respondent replied that the petitioner had submitted a proposal for declaration of probation, however, he was not issued any orders for declaration of probation till crucial date fixed for the preparation of panel for the year 2002 (i.e., on 01.01.2002).

9. He would further contend that the request of the petitioner was rejected by the first respondent for the reason that the petitioner had not submitted the application for revision of his seniority within a period of three years and he had submitted the same belatedly on 11.12.2012. Therefore, the impugned proceedings passed by the first respondent is legal and just and no interference is warranted.

10. In the present case on hand, the petitioner made several requests for inclusion of his name in the panel for promotion, however, his name was not included in the panel. He also approached the Hon'ble Chief Minister's Special Cell and the first respondent, but his efforts were in vain. Hence, he had filed a writ petition to work out his remedy. Pursuant to the order passed by this Court, dated 27.10.2014, the first respondent considered the petitioner's representation, dated 11.12.2012 and the same was rejected by the first respondent for the reason that the petitioner had not submitted his representation within the prescribed period of three years.

11. As rightly pointed out by the learned Govt. Advocate, the petitioner had not submitted his application for revision of his seniority within a period of three years, whereas, he submitted the application for revision of seniority belatedly on

11.12.2012, therefore, the same was rejected by the first respondent on the ground of latches.

12. Considering the facts and circumstances of the case, this Court is of the opinion that there is no infirmity in the impugned proceedings passed by the first respondent in Na.Ka.No.97975/C3/E2/2014 dated 17.03.2015. The first respondent had rightly rejected the request of the petitioner. Hence, this writ petition is liable to be dismissed.

13. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mrr

To

- 1.The Joint Director (Personnel),
School Education, DPI Campus,
College Road, Chennai - 600 006.
- 2.The Chief Educational Officer,
O/o. The Chief Educational Office, Villupuram.
- 3.The Headmaster,
Government Higher Secondary School,
Peruvalur - 604 208, Senji Taluk, Villupuram District.

+1cc to Ms.Dakshayani Reddy, Advocate sr.98365

+1cc to Government Pleader SR.NO. 98090

W.P.No.15098 of 2015, MP.NO.2/15
and M.P.No.3 of 2015
and W.M.P.No.27733 of 2016

nrl(co)
nr 30/01/2020