

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.11.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.14754 of 2010

1 M.K.KALAICHELVI
42/18 NEW KARKANA STREET,
TIRUVANNAMALAI,
TIRUVANNAMALAI DIST. PETITIONER

Vs.

1 DIRECTOR OF SCHOOL EDUCATION
CHENNAI-6
2 CHIEF EDUCATIONAL OFFICER
TIRUVANNAMALAI TIRUVANNAMALAI DIST.
3 HEADMASTER
MUNICIPAL GIRLS HIGHER SECONDARY SCHOOL
TIRUVANNAMALAI TIRUVANNAMALAI DIST. RESPONDENTS

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st respondent in his proceedings Na.Ka.No.22353/C1/E1/2010 dated 31.5.2010 and quash the same and direct the respondents to promote the petitioner as Headmaster of High School in the Municipal Unit from the date on which her junior was promoted and confer all the consequential benefits. सत्यमेव जयते

For Petitioner : Mr.C.Selvaraju
Senior Counsel for
Mr.P.Ganesan

For Respondents : Mr.K.Karthikeyan, G.A.

O R D E R

Challenging the impugned order, passed by the first respondent, dated 31.5.2010, the petitioner has filed the instant writ petition.

2. The Writ petitioner joined as Secondary Grade Teacher on 19.11.1987 on contract basis in Panchayat Union Middle School, Vasur Wallajah, Vellore District and

subsequently, transferred to Tiruvannamalai District and posted at Panchayat Union Middle School, Karikalampadi, Keelpennathur Union, Tiruvannamalai District on 28.11.1987. Thereafter, the petitioner was appointed in the regular time scale on 27.12.1988 and her services were regularized with effect from 1.6.1988. Further, on satisfactory completion of probation on 6.6.1990, on her request, she was transferred to Municipal School on 18.12.1990 with specific condition that the writ petitioner have to take junior most position in the Secondary Grade post in Tiruvannamalai District. When the petitioner was working in Tiruvannamalai Municipal School, she was promoted as B.T. Assistant on 28.11.1995. In so far as Municipal Schools are concerned, a separate panel is being drawn and promotions were made by the Municipal authorities. The next avenue of promotion is to the post of Headmaster of High School. The panel for promotion to the post of Headmaster of High School was drawn in the year 2009. According to the petitioner, though juniors of the petitioner were included in the panel, the writ petitioner's name did not find place in the list. According to the petitioner, the petitioner's name should have been placed in between Sl.No.6 and 7. Therefore, the petitioner made a representation to the third respondent for inclusion of her name in the panel. Since the representation of the petitioner was not considered by the third respondent, she preferred an appeal to the first respondent. The first respondent rejected the claim of the petitioner on the ground that the persons who were appointed prior to 31.5.1986 by the Municipal Commissioner alone are eligible for promotion to the post of Headmaster of High School. The petitioner was not appointed by the Municipal Commissioner, therefore, the petitioner's name was not included in the panel for promotion to the post of Headmaster of High School. Hence, the petitioner has filed the present writ petition to set aside the impugned order.

3. The learned counsel appearing for the petitioner submitted that the reason assigned in the impugned order is that the petitioner was appointed subsequent to 31.5.1986 in the Municipal School and those who have joined prior to 31.5.1986 alone are eligible for including in the panel for promotion to the post of Headmaster of High School. According to the counsel appearing for the writ petitioner, the impugned order is contrary to rules. The petitioner joined municipal service on 18.12.1990 as junior most Secondary grade teacher in the Municipal School and the writ petitioner was promoted to the post of B.T. Assistant on 28.11.1995. Taking into consideration that the petitioner has joined in the Municipal Service on 18.12.1990 as junior most Secondary Grade teacher in the Municipal School, the petitioner is eligible for promotion to the post of Headmaster of High School. Therefore, the impugned order is liable to be set aside.

4. The learned Government Advocate appearing for the petitioner submitted that the panel for promotion to the post

of Headmaster of High School prepared by the respondent is as per the Municipal Rules. The cut-off date fixed for promotion to the post of Headmaster of High School is 31.5.1986. Teachers who have joined Municipal service prior to 31.5.1986 alone are eligible for promotion to the post of Headmaster of High School whereas the writ petitioner joined Municipal service on 18.12.1990 is not eligible for promotion to the post of Headmaster of High School. Therefore, the name of the writ petitioner is not included in the panel for promotion to the post of Headmaster of High School. Therefore, the impugned order is perfectly valid in law and the writ petition is liable to be dismissed.

4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents and perused the materials available on record.

5. A perusal of the impugned order shows that the writ petitioner joined as Selection Grade Teacher in the Municipal School on 10.12.1992 and thereafter, she was promoted as B.T. Assistant in the same School on 28.11.1995. The reason assigned in the impugned order that those who have joined Municipal School prior to 31.5.1986 alone are eligible and therefore, the writ petitioner was not eligible for inclusion in the panel for promotion to the post of Headmaster cannot be accepted. The writ petitioner joined Municipal service on 18.12.1990 and she was promoted as B.T. Assistant in the year 1995. However, the writ petitioner's name was not included in the panel for promotion to the post of Headmaster of High School. The learned Government Advocate submitted that the petitioner has not reached the zone of consideration within the cut-off date viz., 31.5.1988 fixed for promotion to the post of Headmaster. This Court is not satisfied with the reason assigned by the first respondent in the impugned order. Therefore, this Court is inclined to pass the following order:

(i) The writ petition is allowed. The impugned order passed by the first respondent, dated 31.5.2010 is quashed and remanded back to the first respondent to consider afresh and pass appropriate orders. No costs.

(ii) If necessary, opportunity shall be granted to the aggrieved persons.

(iii) The first respondent shall complete the said exercise within a period of 12 weeks from the date of receipt of copy of the order.

Sd/-

Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

vaan

To

1 THE DIRECTOR OF SCHOOL EDUCATION

CHENNAI-6

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

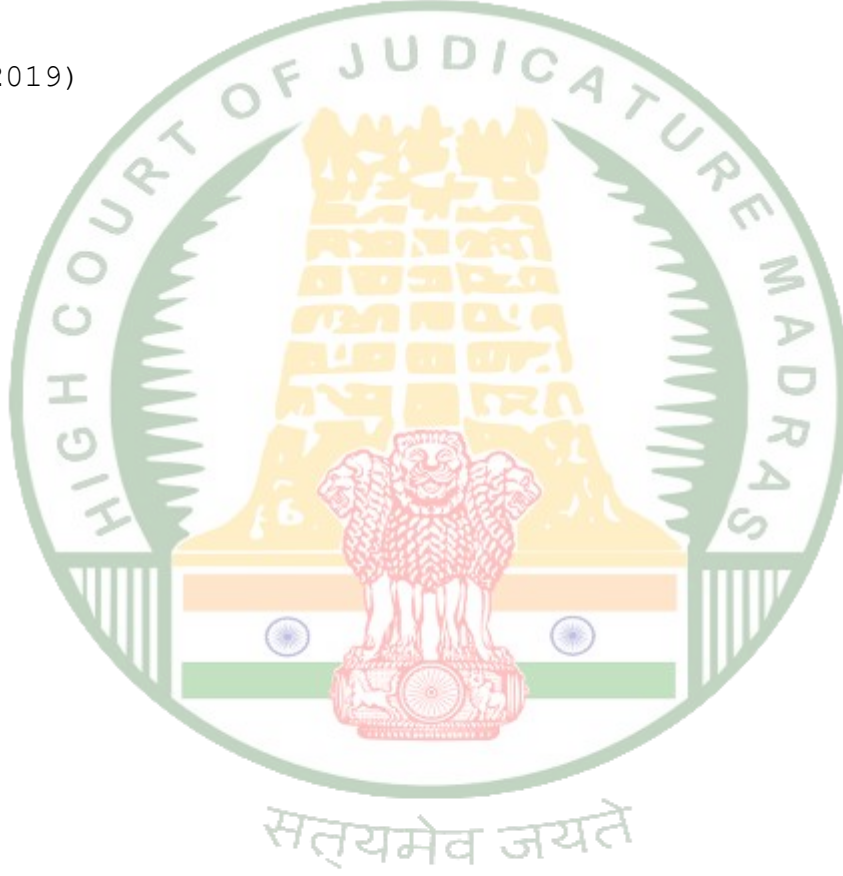
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+1cc to Mr.C.S.Associates, Advocate, S.R.No. 92739
+1cc to the Government Pleader, S.R.No. 93373

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SJ(CO)
GN(30/12/2019)



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