

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 05.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

WP.No.15305 of 2005

G.Thenmozhi

...Petitioner

Vs

1. The Director of Elementary Education,
College Road, Chennai - 600006.

2. The District Elementary
Educational Officer,
Namakkal District,
Namakkal.

3. The Assistant Elementary
Educational Officer,
Puduchatiram Panchayat Union,
Puduchatiram,
Namakkal District Educational
Officer.

4. M.Gowri

5. K.Shanthi

6. A.Vasantha

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records of the 3rd respondent in relation to the seniority list of Secondary Grade Teachers dated 24.03.2004 issued in Proceedings No. Nil prepared as on 01.01.2004 for Puduchathiram Panchayat Union and Panel dated 24.03.2004 issued in Proceedings No. Nil for promotion to the post of Primary School Head Master as on 01.01.2004 for Puduchathiram Panchayat Union, Namakkal District and a consequential direction to the respondents to place the petitioner at the appropriate place in the above seniority list and panel and issue a consequential proceedings issued on NA.Ka.no.2634/2004 dated.08.09.04 and quash the same in so far as the Petition is concerned and consequential direction to the respondents 1 to 3 to promote the

petitioner as Primary School Head Master with effect from 08.09.2004 when the respondent 4 was promoted with service and monetary benefits.

For Petitioner : Mr.R.Saseetharan

For Respondents: Mrs.V.Annalakshmi, AGP
for R1 to R3

Mr.P.Mathivanan
for R4

Mr.M.Ravi
for R5

Mrs.Usha Raman
for R6

O R D E R

The limited grievance of the petitioner is that her juniors namely respondents 4 to 6 herein had been shown to be her seniors in the seniority list and therefore, since her representations before the respondents were not considered for rectifying the list, the present Writ Petition has been filed.

2. The learned counsel for the petitioner submitted that the petitioner herein had joined her services on 04.10.1996, whereas the respondents 4 to 6 herein had joined their services on 07.10.1996 and therefore arraying respondents 4 to 6 herein as her seniors in the seniority list, is improper. By referring to the averment made in the counter affidavit, the learned counsel for the petitioner submitted that it is false on the part of the respondents to say that she had not objected to the seniority list within time. It is her contention that the petitioner herein had objected to the seniority list on 31.03.2004 and 16.07.2004 itself and even otherwise, she had filed a Writ Petition in the year 2005, which is within the period of 3 years.

3. The learned Government Advocate, reiterated the averments made in the counter affidavit and submitted that there was a duty cast on the petitioner to raise her objections within time. Even otherwise, the petitioner has already been promoted as a Head Mistress and therefore, the present prayer seeking for rectification of the seniority list need not be considered.

4. I have given careful consideration to the submissions made by the respective counsels.

5. It is not in dispute that the date of joining of the petitioner herein was on 04.10.1996 and that the date of joining of the respondents 4 to 6 was on 07.10.1996 respectively. Apparently, the respondents 4 to 6 herein are juniors to the petitioner and as such, arraying respondents 4 to 6 as seniors to the petitioner herein is an apparent error.

6. The only defence raised in the counter is that the petitioner herein did not raise her objections within a period of 3 years. It is seen that the copies of the representations dated 31.03.2004 and 16.07.2004 raising the objections has been given through proper channel to the respondents herein. Even assuming that such representations have not reached the office of the respondents, the petitioner had filed the Writ Petition in the year 2005 itself, which is almost within a year from the date of the seniority list and since the official respondents have been shown as parties to the Writ Petition, it can only be said that the objections of the petitioner had been made aware of to the respondent. As such, the apparent error of showing the respondents 4 to 6 herein as seniors to the petitioner requires to be rectified. Nevertheless, since the petitioner has already been promoted to the post of Head Mistress, it would be appropriate to direct the respondents to consider her promotion notionally from the date of which the juniors were promoted.

7. In the light of the foregoing discussions, the petitioner is granted liberty to make appropriate application to the 2nd respondent seeking for notional promotion from the date when the respondents 4 to 6 were promoted as Head Mistress respectively and on receipt of such an application, the 2nd respondent shall pass appropriate orders by notionally promoting the petitioner to the post of Head Mistress from the date on which the respondents 4 to 6 came to be promoted.

8. With the above observations, the present Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar(CS iii)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Director of Elementary Education,
College Road, Chennai - 600006.
2. The District Elementary Educational Officer,
Namakkal District,
Namakkal.
3. The Assistant Elementary Educational Officer,
Puduchatiram Panchayat Union,
Puduchatiram,
Namakkal District Educational Officer.

+1cc to Mr. M.Ravi, Advocate SR.No. 20701

+1cc to Mr.R.Saseetharan Advocate SR.No.21110

+1 cc to Government Pleader SR.NO. 20978

WP.No.15035 of 2005

A.SK(05/04/2019)



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