

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.02.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.3842 of 2019
and
W.M.P.No.4268 of 2019

1.C.Ravikumar
2.P.Jegatheeswari
3.S.Gowri
4.R.Umamaheshwari
5.R.Rajeshwari
6.G.Usharani

... Petitioners

vs

1.The Secretary,
Directorate of School Education,
DPI, Nungambakkam,
Chennai - 600 006.

2.The Director of School Education,
Department of School Education,
DPI Campus, Nungambakkam,
Chennai - 600 006.

3.The Joint Director,
Higher Secondary Education,
DPI Campus, Nungambakkam,
Chennai - 600 006.

4.The Joint Director(Personal Administration)
Directorate of School Education,
DPI Campus, Nungambakkam,
Chennai - 600 006.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents herein to give promotion to the petitioners who are all working as Secondary Grade Teachers to Post Graduate Teachers by following GO(Ms)No.132-Education, Science and Technology Department dated 21.02.1995 and GO(Ms) No.152-School Education (HS2) Department dated 14.07.2008.

For Petitioners : Mr.T.L.Thirumalaisamy
For Respondents : Mr.A.Rajaperumal
Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents herein to give promotion to the petitioners who are all working as Secondary Grade Teachers to Post Graduate Teachers by following GO(Ms)No.132-Education, Science and Technology Department dated 21.02.1995 and GO(Ms) No.152-School Education (HS2) Department dated 14.07.2008.

2.The writ petitioners are working as Secondary Grade Teachers / Physical Education Teachers in various schools of various Districts across the State of Tamil Nadu. The petitioners claim that they all are eligible for promotion and they possess all requisite qualifications for further promotion.

3.The grievances of the writ petitioner is that the earlier procedures followed pursuant to the Government orders issued in G.O.Ms.No.720, School Education dated 28.04.1981 and G.O.Ms.No.266, School Education dated 18.10.2000 are not followed now for the purpose of grant of promotion.

4.The said Government orders states that in G.O.Ms.No.452, School Education (HS2) Department dated 24.03.1988, more specifically, issued following G.O.Ms.No.132 dated 21.02.1995, which is mentioned as below:-

"They accordingly direct that 10% of the vacancies under direct recruitment of the posts of school assistants in Tamilnadu school educational subordinate service and 10% of vacancies under direct recruitment of the posts of P.G.Assistants in academic subject and languages in Tamilnadu Higher Secondary Education Service be reserved for appointment by the qualified and eligible secondary grade teachers coming under Tamilnadu, Elementary education subordinate service".

5.The grounds raised by the writ petitioner also states that the respondents failed to follow the G.O.Ms.No.132, Education, Science and Technology dated 21.02.1995, wherein it was directed that 10% of the vacancies under direct recruitment of the posts of school assistants in Tamilnadu school educational subordinate service and 10% of vacancies under direct recruitment of the posts of P.G.Assistants in academic subject and languages in Tamilnadu Higher Secondary Education Service be reserved for appointment by the qualified and eligible secondary grade

teachers coming under Tamilnadu, Elementary education subordinate service.

6.The very relief sought for in the present writ petition is to direct the respondents to grant promotion to the writ petitioners with reference to certain Government orders.

7.Promotion can never be claimed as a matter of right. However, all promotions are to be made strictly in accordance with the rules in force. Consideration for promotion is a right of an employee. Thus, all the employees, who all are eligible and possessing requisite qualifications for promotions are to be considered for inclusion of their respective names in the panel to be prepared when a decision is taken to grant promotion. For the purpose of grant of promotion, an administrative decision to fill up the vacancies are to be taken by the authorities competent. In the event of taking an administrative decision, the authorities competent are bound to call for the particulars of the individuals, who all are fit for promotion to the higher posts. After calling the particulars, a panel is to be prepared including the names of the eligible persons by considering the promotion criterias and the rules in force. Only after finalization of the approved panel, promotions are to be made strictly in accordance with the rules in force.

8.The writ petitioner has not challenged any of the rules or the Government orders in respect of grant of promotion. However, a direction is sought for to grant promotion to the writ petitioners to the higher posts. Such a prayer is not only premature, but the same cannot be considered in view of the fact that the respondents have not yet prepared the panel of persons, who all are eligible and found fit for promotion. Only in the event of preparation of panel, the right of the employee occurs and therefore, the present writ petition deserves no merit consideration.

9.The learned counsel for the writ petitioner orally made a submission that juniors to the writ petitioners were promoted. However, no such order is under challenge nor any of such juniors are impleaded as respondents in the writ petition. In the absence of any such promotion order, this Court would not be in a position to grant the relief of promotion to the writ petitioner. In the event of any such grievance, it is left open to the writ petitioner to redress his grievance in the manner known to law.

10. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Directorate of School Education,
DPI, Nungambakkam,
Chennai - 600 006.
2. The Director of School Education,
Department of School Education,
DPI Campus, Nungambakkam,
Chennai - 600 006.
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4. The Joint Director (Personal Administration)
Directorate of School Education,
DPI Campus, Nungambakkam.
Chennai - 600 006.

+1 cc to Mr. T. L. Thirumalai Samy, Advocate Sr.No.12089
+1 cc to The Government Pleader, Sr.No.12843

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SSV(CO)
CSL/06.03.2019

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