

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.5295 of 2019

M.Shilesh Kumar

.. Petitioner

Vs.

1. The District Educational Officer
O/o. The District Education Office,
Vellore,
Vellore District.

2. The Headmaster,
Government Higher Secondary School,
Kammavanpet - 632 319,
Vellore District.

.. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the 1st respondent to consider the proposal of the 2nd respondent dated 20.10.2017 and pass orders on the same in regard to promotion as Office Assistant by transfer of service as per the Tamil Nadu Basic Service Rules.

For Petitioners : Mr.K.Sanjay

For Respondents : Mr.A.Rajaperumal
Additional Government Pleader
for R1 & R2

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O R D E R

The relief sought for in the present writ petition is for direction to direct the 1st respondent to consider the proposal of the 2nd respondent dated 20.10.2017 and pass orders on merits in respect of the claim of the writ petitioner for promotion to the post of Office Assistant by way of transfer of service.

2. The writ petitioner was appointed as part time sweeper on 01.10.1997 and thereafter, brought under the regular time scale of pay with effect from the year 2007.

3. The grievance of the writ petitioner is that he submitted an application, seeking promotion to the post of Office Assistant from the post Night Watchman. The application submitted by the writ petitioner was forwarded by the Head Master to the District Educational Officer in proceedings dated 20.10.2017. In view of the fact that the District Educational Officer has not considered the application, the writ petitioner is constrained to move the present writ petition.

4. The promotion can never be claimed as a matter of right. However, consideration for promotion is a right of an employee. Thus, whenever, the process of promotion is undertaken by the competent authorities, the names of all the eligible persons are to be considered for preparation of panel and the promotions are to be given strictly in accordance with the Rules in force.

5. This being the principle, promotion, per se, cannot be claimed as a matter of right. An administrative decision to fill up the post by extending the quota is to be taken. In the event of any such administrative decision by the competent authorities, the process of granting promotion is to be commenced in this regard. The panel of eligible candidates is to be prepared and thereafter, by following the procedures, the eligible persons in the order of seniority is to be considered in accordance with the rules in force. Thus, mere submission of an application for promotion, cannot be considered by the competent authorities and such applications will not confer any right and promotions are to be granted only by following the Rules in force.

6. This being the principles to be followed by the authorities, the direction, as such, sought for to consider the application submitted by the writ petitioner, cannot be ordered.

7. This apart, the proposal dated 20.10.2017 sent by the 2nd respondent to the 1st respondent is not a proposal and it is only forwarding of the application to the District Educational Officer and therefore, the direction, as such, sought for by the writ petitioner, cannot be granted. However, in the event of taking any decision to prepare the panel, the competent authorities shall consider the names of all the eligible

persons, including the name of the writ petitioner.

8. With the above observations, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

svn/kmm

To

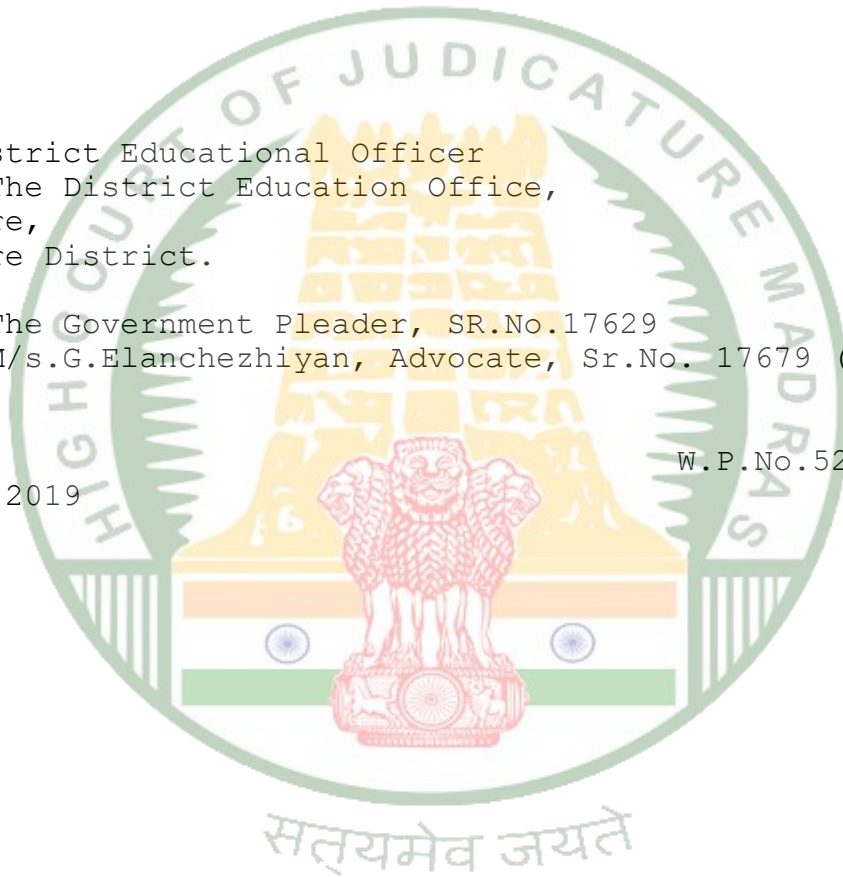
1. The District Educational Officer
O/o. The District Education Office,
Vellore,
Vellore District.

+1 cc to The Government Pleader, SR.No.17629

+1 cc to M/s.G.Elanchezhiyan, Advocate, Sr.No. 17679 (10.05.2019)

W.P.No.5295 of 2019

CSL/27.03.2019



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