

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.03.2019

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

W.P.Nos.8130 & 8132 of 2019

M.Palanisamy
A.Dhanapal

..Petitioner in W.P.No.8130/2019
..Petitioner in W.P.No.8132/2019

vs

1. The State of Tamil Nadu, rep.by its
Secretary to Government
Department of School Education,
Secretariat, Chennai - 600 009.
2. The Director,
Directorate of Public Libraries,
737/1, Anna Salai
Chennai - 600 002.
3. The District Library Officer
Local Library Authority,
Fort Main Road,
Namakkal - 637 001.

..Respondents in both W.Ps

Common Prayer:

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order made in Na.Ka.No.13696/A2/2018 dated 11.01.2019 passed by the 2nd respondent, quash the same and consequently direct the respondents to consider the petitioners for appointment to the Post of Librarian Grade III by taking note of his qualification and length of services in the Post of Part time Librarian and Village Librarian.

For Petitioners : Mr.Manoharan N
(in both W.Ps)

For Respondents : Mr.A.Rajaperumal
Additional Government Pleader
(in both W.Ps)

C O M M O N O R D E R

The impugned order dated 11.01.2019, stating that the Post of Village Librarian is not a feeder category for promotion to the Post of Grade III Librarian in the Tamil Nadu Public Librarian Department, the petitioners cannot claim any right for promotion to the Post of Grade III Librarian. Challenging the said order, the present writ petitions are filed.

2.This Court is of an opinion that the Department of Public Libraries are solely dispensing with the engagement of part-time Librarian and the Village Librarians are being appointed on a consolidated pay since the Post of Village Librarian is allowed to continue only on consolidated pay, the same cannot be construed as a Feeder Category unless the rules provides. In other words, the persons, who all are working in the Post of Village Librarian cannot claim promotion directly to the Post of Grade III Librarian, unless it is incorporated as a Feeder Category in the Service Rules in force. However, the claim of such persons are being considered, taking note of their length of services rendered in the Department of Public Libraries and the qualifications acquired by the candidates with reference to the Service Rules in force. Now, the Post of Grade III Librarian is modified by the Rules and the competent authorities are bound to follow the rules at the time of undertaking the process of promotions/appointment to the Post of Grade III Librarian.

3.Promotion perse cannot be claimed as a matter of right. However, consideration for promotion is a fundamental right of an employee. At the time of undertaking the process of promotion, it is duty mandatory on the part of the competent authority to consider the names of all the eligible candidates, who all are aspiring to secure promotions/appointments to the higher post.

4.The grievances of the writ petitioners are that their juniors, who were working in the cadre of Village Librarian were considered for appointment to the Post of Grade III Librarian, depriving their right of consideration.

5.The learned counsel for the writ petitioners states that uniformity in considering the cases are required and such uniformity and consistency has not been followed and persons of their choice are being appointed to the Post of Grade III Librarian.

6.This Court is of an undoubted opinion that if the authorities acted arbitrarily or in violation of the Constitutional perspectives and principles, they are allowed to

be prosecuted. The authorities competent must follow the rules, while undertaking the process of promotions or appointment and any deviation should be viewed seriously. As stated in the impugned order, the Post of Village Librarian may not be a Feeder Category for the Post of Grade III Librarian. However, at the time of process of filling up of the Post of Grade III Librarian, if the Cases of Village Librarian to be considered by the Department, then the names of all the persons, who all are aspiring and waiting to secure higher post must be considered and there must be a process of selection in accordance with the rules. Contrarily, if the Department acted contrary to the principles of law even in the absence of rule, they are certainly responsible and accountable. It is not as if, the competent authority can appoint / promote the person to the higher post at their whims and fancies and without following the rules in force. Even in the absence of any such specific rules for promotion to the Post of Grade III Librarian from amongst the holders of the Post of Village Librarian, the authorities are bound to follow the general principles in consonance with the general rules.

7.This being the practice to be adopted by the authorities competent, while considering the cases of all the eligible Village Librarians, who all are eligible for promotion to the Post of Grade III Librarian. The authorities / respondents must avoid any such arbitrariness in the matter of granting promotions/appointments.

8.It is made clear that in the event of taking a decision to promote the Village Librarian or Grade III Librarian, a seniority list must be prepared and the names of all the eligible persons in the order of seniority with reference to the rules for the Post of Grade III Librarian must be followed and a uniformity and consistency in the matter of promotion is a Constitutional requirement and in the event of any such violation, the Courts are also view the matter seriously and as of now, no such specific instances can be brought before this Court in the present writ petitions.

9.In the event of any such instance, the Courts would view the issues seriously and appropriate actions are to be initiated against the officials, who all are responsible for such arbitrariness or irregularities.

10.Under these circumstances, the case of the writ petitioners are also to be considered along with all other eligible candidates at the time of undertaking the process of appointments / Promotions and by strictly following the rules in this regard.

11.With these observations, both the writ petitions stand disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Department of School Education,
Secretariat, Chennai - 600 009.
2. The Director,
Directorate of Public Libraries,
737/1, Anna Salai
Chennai - 600 002.
3. The District Library Officer
Local Library Authority,
Fort Main Road,
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+2ccs to Mr.N.Manoharan, Advocate, S.R.No.27739, 27740
+1cc to the Government Pleader, S.R.No.28578

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SJ(CO)
CS/23/04/2019

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