

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM:  
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32807 of 2019  
and  
WMP Nos.33233 & 33234 of 2019

H.Gopinathan

... Petitioner

.Vs.

1.The State of Tamil Nadu,  
Rep.by its Principal Department of  
School Education,  
Fort St.George, Chennai 600 009.

2.The Director of School Education,  
Directorate of School Education,  
DPI Campus, Chennai 600 006.

3.Chief Educational Officer,  
Vellore District,  
Vellore 632 009.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records in connection with proceedings of the 2<sup>nd</sup> Respondent in Na.Ka.No.3720/W.1/E1/2019 dated 16.11.2019 and quash the same insofar as it does not include the name of the petitioner in the list of seniority cum eligibility prepared by him for the purpose of promotion as Head Master in Government Higher Secondary Schools, against the additional vacancies in the year 2019 and direct the respondents to consider the petitioner for promotion, by counselling, as Head Master in Government Higher Secondary Schools, against the additional vacancies in the year 2019 and in future.

For petitioner : Mr.P.Ulaganathan

For Respondent : Ms.K.Kavitha  
Government Advocate

## ORDER

This Writ petition has been filed by the petitioner for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the 2<sup>nd</sup> Respondent in Na.Ka.No.3720/W.1/E1/2019 dated 16.11.2019 and quash the same insofar as it does not include the name of the petitioner in the list of seniority cum eligibility prepared by him for the purpose of promotion as Head Master in Government Higher Secondary Schools, against the additional vacancies in the year 2019

2.The case of the petitioner is that based on the selection conducted by the Teachers Recruitment Board (TRB) in the year 2003-2004, the petitioner was selected and appointed as Junior Post Graduate Teacher (Chemistry) vide proceedings of the Joint Director (HS) dated 25.06.2004 and 14.07.2004. Though, the appointment was made against regular vacancies, initially the petitioner was appointed on consolidated pay and later his services are regularised as Post Graduate Teacher from 01.06.2006 onwards. While so, vide proceedings dated 11.01.2019 in Na.Ka.No.3720/W.1/E1/2019, the 2<sup>nd</sup> respondent circulated the list of seniority cum eligibility list as on 11.09.2019, wherein, the name of the petitioner does not find place. Hence, he made a representation to the 2<sup>nd</sup> respondent to determine his position in the list of Seniority cum Eligibility. However, there was no action. Later by proceedings dated 16.11.2019 impugned in the writ petition, the 2<sup>nd</sup> respondent has circulated the Seniority cum Eligibility list for promotion to the post of Headmaster wherein, also the name of the petitioner did not find place. According to the petitioner several other Post Graduate Teachers who were juniors to them have been included in the list. Therefore immediately on 18.11.2019, raising objections to the impugned seniority list prepared by the 2<sup>nd</sup> respondent, the petitioner made a representation and requested to include his name and consequently permit him to the Post of Headmaster in Government Higher Secondary School. As there was no action forthcoming despite representation from the respondents, the petitioner is before this Court.

3.The learned counsel for the petitioner would submit that originally the petitioner was appointed as a Post Graduate Teacher on 14.07.2004, after under going regular process of selection conducted by the Teacher Recruitment Board and he ws appointed against regular vacancy. However, his services came to be regularised only in the year 2006 and based on impugned seniority list his name has not been included in the seniority list

prepared by the 2<sup>nd</sup> respondent. While the juniors of the petitioners have been included as seniors to the petitioner, which cannot be sustained. The learned counsel would draw attention of this Court to an order passed by this Court dated 12.06.2017 in W.P(MD).No.21316 and 21317 of 2015 wherein, this Court has categorically held that seniority of the teachers should be taken from the date of their original appointment not from the date of the regularisation, and therefore, they are entitled to claim seniority from the date of their original appointment for the purpose of promotion to the Post of Headmaster in Higher Secondary School. Therefore, the learned counsel would submit that the petitioner is entitled to the seniority from the date of his original appointment i.e., on 14.07.2004 in the light of the above order passed by this Court. The learned counsel would submit that in this regard, the petitioner has made representation on 18.11.2019, raising objections in this regard to the impugned seniority list dated 16.11.2019 to the respondents. But, it has been kept pending without consideration. Therefore, the learned counsel seeks mandamus as sought for in the writ petition.

4.The learned Government Advocate appearing for the respondents while conceding the claim of the petitioner would submit that if any direction given by this Court to consider the representation of the petitioner dated 18.11.2019, the same would be complied with by the respondents and the representation of the petitioner would be disposed of in accordance with law.

5.Considering the facts and circumstances and submissions made by the learned counsel for the petitioner, the respondents are directed to consider the representation made by the petitioner dated 18.11.2019 and dispose of the same in accordance with law, and on merits, within a period of six weeks from the date of receipt of a copy of this order. The respondents shall bear in mind that the order passed by this Court dated 12.06.2017 in W.P(MD).No.21316 and 21317 of 2015.

Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

KP

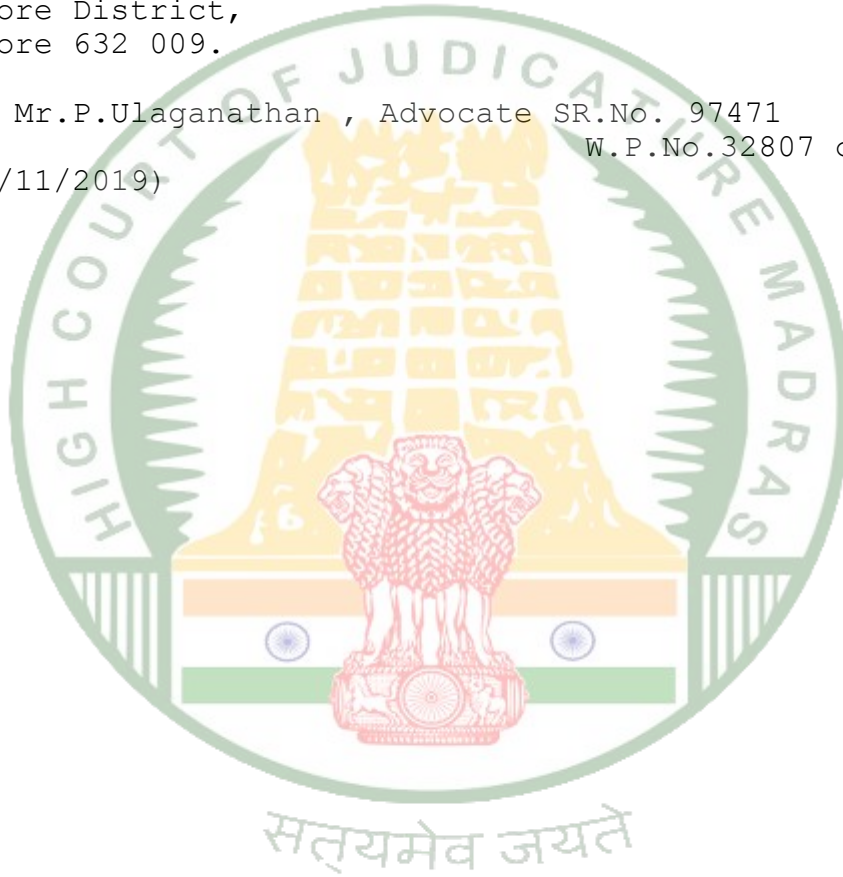
To

1.The State of Tamil Nadu,  
Rep.by its Principal Department of  
School Education,  
Fort St.George, Chennai 600 009.

2.The Director of School Education,  
Directorate of School Education,  
DPI Campus, Chennai 600 006.

3.The Chief Educational Officer,  
Vellore District,  
Vellore 632 009.

+1cc to Mr.P.Ulaganathan , Advocate SR.No. 97471  
W.P.No.32807 of 2019  
A.SK(25/11/2019)



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