



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.12045 of 2011
and
M.P (MD)Nos.1 and 2 of 2011

V.Dhanasekaran

... Petitioner

vs.

1)The Director of Elementary Education,
College Road,
Chennai-6.
2)The District Elementary Educational Officer,
Palani Road,
Dindigul.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd Respondent in his proceedings Na.Ka.No.947/A2/2011 dated 11-05-2011 and quash the same as illegal and consequentially to direct the 2nd Respondent to restore petitioner's original seniority in the seniority list of Elementary School Head Masters drawn as on 01-01-2011 based on the rank assigned by the Teachers Recruitment Board and notionally promote the petitioner as Elementary School Head Master w.e.f. 02-06-2008 in the light of the order dated 02-07-2010 passed by this Honourable Court in W.P.(MD) No.4780 of 2008 and pay the monetary benefits thereon.

For Petitioner	: Mr.C.Venkatesh Kumar
For Respondents	: Mr.N.Shanmuga Selvam
	Additional Government Pleader

ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd Respondent in his proceedings Na.Ka.No.947/A2/2011 dated 11-05-2011 and quash the same as illegal and consequentially to direct the 2nd Respondent to restore petitioner's original seniority in the seniority list of Elementary School Head Masters drawn as on 01-01-2011 based on the rank assigned by the Teachers Recruitment Board and notionally promote the petitioner as Elementary School Head Master w.e.f. 02-06-2008



in the light of the order dated 02-07-2010 passed by this Honourable Court in W.P.(MD) No.4780 of 2008 and pay the monetary benefits thereon.

2.Learned counsel for the petitioner would state that initially, the petitioner was recruited as Secondary Grade Teacher by the Teachers Recruitment Board and he joined in Pudukkottai Government High School, Dindigul District, on 28.07.1995 and he was transferred to Sallaiyakoundanoor Panchayat Union Elementary School, Reddiarchathram Union, Dindigul District on 11.07.1997. While so, the Government have issued G.O.Ms.No.388, dated 19.06.1996 by which, the teachers who have been appointed by the Teachers Recruitment Board can be transferred to any union or district and on such transfer, they can keep their seniority as fixed by the TRB. He would further submit that the 2nd respondent by proceedings dated 22.04.2008, had prepared a panel of Secondary Grade Teacher fit for promotion to the post of Elementary School Headmaster for the year 2008 as on 01.01.2008, in which, the petitioner was placed at serial No.5 in conformity with the above G.O. While so, the said panel dated 22.04.2008 was changed and a new panel list dated 14.05.2008 was published in which, the petitioner's name did not find place and therefore, he made objection and the 2nd respondent issued an order dated 14.05.2008 stating that he is not entitled to retain the seniority assigned by the TRB as he was not transferred from his native in terms of the proceedings dated 11.06.2007 issued by the 1st respondent. According to the petitioner, the person who gets transfer from one union to another union within the same district is entitled to the benefits of G.O.Ms.No.388 and therefore, he is entitled to retain the seniority assigned by the TRB and further, the proceedings dated 11.06.2007 itself has been quashed in W.P(MD) No.5418/2008 dated 30.03.2010. Hence, the petitioner filed W.P(MD) No.4780/2008 challenging the panel dated 14.05.2008 and the consequential order dated 14.05.2008 issued by the 2nd respondent and this Court by order dated 02.07.2010 set aside the orders impugned therein and directed the respondent to restore the petitioner's original seniority as assigned by the TRB and also directed to consider the petitioner for promotion to the post of Headmaster if he is otherwise found fit.

3.It is further submitted that after repeated representations of the petitioner, the 2nd respondent by proceedings dated 20.12.2010 promoted the petitioner as Headmaster of Panchayat Union Elementary School, Kethampatti with effect from 20.12.2010 which according to the petitioner is contrary to the orders passed in W.P(MD) No.4780/2008. While so, the seniority list of Elementary School Headmaster was released on 18.05.2011, in which the petitioner was placed at serial No.59 instead of serial No.39 in terms of the order passed in W.P(MD)No.4780/2008. Hence, the petitioner made representation dated 04.07.2011 to place him at serial No.39 which was rejected by the impugned order dated 11.05.2011. Thus, he would



as stated supra.

4.The 2nd respondent filed counter affidavit. Learned Additional Government Pleader would state that the petitioner joined duty as Secondary Grade Teacher at Government High School, K.Pudukottai which comes under the School Education Department and after his migration therefrom to Elementary Education Department, his seniority as per the rank of TRB is forfeited as such it cannot be retained. Further, when the petitioner who was given appointment in High School preferred transfer to Primary School on his own volition, he is deemed to have forfeited his seniority assigned by the TRB. It is further submitted that as per the communication of the 1st respondent dated 11.06.2007, the 2nd respondent revised the panel list for 2008 and the affected teachers due to revised panel challenged the above communication dated 11.06.2007 in W.P(MD) No.4780/2008 and while admitting the said writ petition this Court by order dated 02.07.2010 has given a direction to consider his promotion as on the date of eligibility as per seniority. Accordingly, the petitioner was promoted as Primary School Headmaster and his seniority in the list of Headmasters of Primary School has been taken as per the date of joining in the present post. Thus, he would state that there is no infirmity in the impugned order and would pray for dismissal of the writ petition.

5.Heard both sides.

6.Perusal of record shows that challenging the revised panel dated 14.05.2008, the petitioner earlier filed W.P(MD)No.4780/2008 and this Court by order dated 02.07.2010 passed the following order:-

"In such circumstances, the impugned order rejecting the request of the petitioner is liable to be set aside. Accordingly, the impugned revised panel, dated 14.05.2008 in so far as the petitioner is concerned and the consequential proceedings of the District Elementary Educational Officer, Dindigul, in O.Mu.No.1483/a3/08 dated 14.05.2008 are set aside. Accordingly, a direction is issued herein to the respondent to restore the petitioner to his original seniority as assigned by the Teachers Recruitment Board as per G.O.Ms.No.388, Education, Science and Technical Education Department, dated 19.06.1996 and consequently if the petitioner is eligible to be promoted as per seniority, consider his case for promotion if he is otherwise found fit for the post of Head Master as on date of eligibility as per the seniority."

7.But quite contrary to the abovesaid directions, the 2nd respondent issued proceedings dated 20.12.2010 promoting the petitioner as Headmaster of Elementary School with effect from 20.12.2010 instead of promoting him from the day his immediate junior was promoted i.e., on 02.06.2008. While it was questioned by the respondent, it was rejected by the impugned order without any



reason. The attitude of the respondents in passing the impugned order in my considered opinion amounts to contempt for non compliance of the order made in W.P(MD)No.4780/2008 dated 02.07.2010. Therefore, the impugned order passed by the 2nd Respondent in his proceedings Na.Ka.No.947/A2/2011 dated 11.05.2011, is set aside and the respondents are directed to restore the petitioner's original seniority and promote the petitioner from the day his immediate junior was promoted in the light of the order dated 02-07-2010 passed in W.P.(MD) No.4780 of 2008 and pay the monetary benefits within a period twelve weeks from the date of receipt of a copy of this order.

With the above direction, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

To

1)The Director of Elementary Education,
College Road,
Chennai-6.

2)The District Elementary Educational Officer,
Palani Road,
Dindigul.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-104885[F] dated 13/12/2019)

ORDER MADE IN
W.P(MD)No.12045 of 2011
DATED : 12.12.2019

_KK/SAR/06.01.2020/4P-4C/