



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.7818 of 2014

and

M.P. (MD) No.1 of 2014

I. John Britto Joseph

... Petitioner

Vs.

1.The Chief Educational Officer,
O/o.The Chief Educational Office,
Tirunelveli District.

2. The District Educational Officer,
O/o. the District Educational Office,
S.N. High Road,
Tirunelveli District.

3.The Headmaster and Correspondent,
St. Xavier S Hr. Secondary School,
Palayamkottai-2,
Tirunelveli District.

4.Santhiyagu Saleth

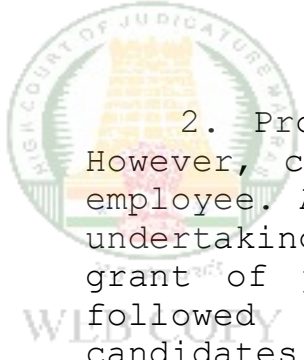
... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus forbearing the respondent No. 3 from promoting the respondent school No.4 in the post of PG Assistant (Chemistry) in the 3rd respondent school and consequently directing the respondent No.3 to consider the petitioner for promotion to the post of PG Assistant (Chemistry) in 3rd respondent school on ground of merit, and ability and seniority within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
For R1 and R2 : Mrs.S.Srimathi
Special Government Pleader
For R3 : Mr.Issac Mohanlal
Senior Counsel
for M/s.Issac Chambers
For R4 : Mr.B.Tamilnidhi

ORDER

The relief sought for in the present writ petition is to forbear the third respondent from permitting the fourth respondent in the post of PG Assistant (Chemistry) in the third respondent's School and direct the third respondent to consider for promotion to the post of P.G. Assistant (Chemistry) in the third respondent's School on the ground of merit.



2. Promotion cannot be claimed as a matter of legal right. However, consideration of promotion is a fundamental right of an employee. All eligible persons are to be considered at the time of undertaking the process of preparation of panel as well as for grant of promotion. Thus, the rules for promotion are to be followed and accordingly, the claim for all the eligible candidates, who all are waiting for promotion, are to be considered.

3. In the present case, the grievance of the writ petitioner is that he was not considered for promotion to the post of P.G. Assistant (Chemistry) inspite of the fact that he is fully qualified and meritorious. The learned counsel appearing on behalf of the writ petitioner states that the merit assessments were made improperly and without granting due weightage to the educational qualifications and other relative merits. Thus, the third respondent must be prevented from appointing the fourth respondent.

4. The learned Senior Counsel appearing on behalf of the third respondent made a submission that already the fourth respondent was appointed as P.G. Assistant (Chemistry) in the third respondent School and he is continuing in service with effect from 09.06.2014 onwards. However, the approval of appointment is yet to be considered by the competent Educational Authorities. The learned Senior Counsel solicited the attention of this Court in respect of evaluation for teachers, which was done by the authorities competent of the third respondent School. According to that, the assessment of merits were considered and due weightage was given to various performance records of the teachers concerned. On a perusal of the consolidated form, it is stated that the Academic Record, Teaching Experience, Co-curricular activities, other background, Community, Model class were considered and accordingly, rankings were provided to all the teachers, who are all eligible for promotion to the post of P.G. Assistant (Chemistry). Relying on the said form, it is submitted that the writ petitioner was also considered along with all other eligible candidates and therefore, he cannot question the selection made by the third respondent's School for promotion.

5. This Court is of the considered opinion that the Court cannot interfere with the merit assessment made by the competent authorities. Such merit assessment can be interfered only on exceptional circumstances, where the person, who is approaching the Court, is able to establish that the entire exercise was illegal and unconstitutional. In all other circumstances, the opinion of the expert body is to be relied upon for the purpose of considering the cases. Thus, this Court cannot enter into an assessment of the performance, merit assessment made by the competent authority of the third respondent School. This apart, the third respondent School is a Minority institution and they can appoint



any person. However, minority institutions are bound to follow the rule of law and the statutes and the rules provided in this regard. This being the factum, if at all any error in the assessment made, it is left open to the competent educational authority to verify the records and take a decision, while considering the approval of appointment in the event of submitting any proposal by the third respondent's School in this regard.

6.The writ petitioner is also at liberty to submit his objection or explanations, if at all any grievances exist to him. However, the approval of appointment is to be considered by the Educational authorities strictly in accordance with the statute as well as the Rules in force. However, the present claim with reference to the relief sought for in the present writ petition deserves no merit consideration.

7.Accordingly, the Writ Petition stands dismissed. However, there shall be no order as to cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Chief Educational Officer,
Tirunelveli District.

2. The District Educational Officer,
S.N. High Road,
Tirunelveli District.

+1 CC to M/s.SPL GP (SR-71258[F] dated 25/06/2019)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-71373[F] dated 26/06/2019)

+1 CC to M/s.B.TAMILNIDHI, Advocate(SR-71548[F] dated 26/06/2019)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-71194[F] dated 25/06/2019)

LS

W.P. (MD) No.7818 of 2014

and

M.P. (MD) No.1 of 2014

24.06.2019