



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.11218 of 2014

and

W.M.P. (MD) No.14485 of 2016

A.Ramalingam

... Petitioner

vs.

1. The Accountant General
(Accounts and Entitlements) Tamil Nadu
No.361, Anna Salai
Chennai-600 018

2. Joint Director
Directorate of School Education
DPI Campus, College Road
Nungambakkam, Chennai

3. District Educational Officer
Sivagangai District
Collectorate Complex
Sivagangai

4. The Secretary
Mannar Higher Secondary School
Weekly Market Road, Sivagangai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondents to give notional promotion as P.G.Assistant from 02.06.2005 with all consequential benefits such as Gratuity, Pension, Commuted Pension, DCRG, earned and unearned Leave Salary and other eligible benefits at the rate of 18% per annum and compensation of Rs.5,00,000/- for loss and mental agony considering petitioner's representation dated 07.03.2014.

For Petitioner : Mr.R.Narayanan

For Respondents: Mr.P.Gunasekaran for R1

Mrs.S.Srimathy

Special Government Pleader for R2 & R3

No appearance for R4

**O R D E R**

The relief sought for in the present writ petition is for a direction to the respondents to give notional promotion as P.G.Assistant to the writ petitioner with effect from 02.06.2005 with all consequential benefits, including interest for the belated settlement of pensionary benefits.

2. The learned counsel for the writ petitioner states that the writ petitioner was appointed as Secondary Grade Teacher on 18.06.1973 and subsequently, he was awarded with selection grade. The grievance of the writ petitioner is that he was not promoted to the post of P.G.Assistant, despite the fact that the vacancy was available during the relevant point of time.

3. Mere availability of the vacancy would not confer any right on the candidate to seek for a direction to the authority concerned to promote him. Availability of the vacancy is not a ground for seeking promotion. Promotions are to be granted by taking an administrative decision to fill-up the vacant post and thereafter, a panel of eligible candidates fit for promotion to the vacant post is to be prepared and accordingly, promotions are to be granted.

4. However, the learned Special Government Pleader appearing for the respondents 2 and 3 states that no process had been undertaken and the writ petitioner claims promotion merely based on the fact that the vacancy of P.G.Assistant was available during the relevant point of time, when he was qualified. Thus, the very relief sought for in the present writ petition is misconceived and the writ petitioner cannot seek direction for promotion, as promotion cannot be claimed as a matter of right and the consideration for promotion alone can be claimed as a matter of right and the consideration would arise only in the event of preparing a panel of eligible candidates fit for promotion to the post of P.G.Assistant.

5. The learned counsel for the first respondent states that the pension proposals were received on 22.02.2013 and were authorized by the first respondent on 05.04.2013, within a period of two months and the writ petitioner also received the benefits on 11.05.2013. This being the factum, there is no delay in settling the terminal benefits warranting a grant of interest.

6. In such view of the matter, the writ petitioner has not established any acceptable ground for the purpose of granting the relief as such sought for in the present writ petition.



Accordingly, the writ petition stands dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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// True Copy //

Sub Assistant Registrar(CS)

To:

1. The Joint Director,
Directorate of School Education,
DPI Campus, College Road,
Nungambakkam, Chennai.
2. The District Educational Officer,
Sivagangai District,
Collectorate Complex,
Sivagangai.

+1 CC to Mr.P.GUNASEKARAN, Advocate (SR-77893[F] dated
26/07/2019)

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