



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)Nos.1289 of 2015 and 15834 of 2014
and
M.P(MD)Nos.1 of 2014 and 1 of 2015

W.P(MD)No.1289 of 2015:-

Mrs.N.Bama

... Petitioner

vs.

1)The Directorate of School Education,
DPI Compound, College Road,
Egmore, Chennai-8.

2)The Chief Educational Officer,
Kanyakumari District at Nagercoil.

3)The District Educational Officer,
Kanyakumari District at Nagercoil.

4)The Secretary,
SMRV Higher Secondary School,
Vadasery, Nagercoil,
Kanyakumari District.

5)M.Manonmani

... Respondents

(R5 is impleaded vide court order dated 21.06.2019 in M.P.2/15)

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to approve the petitioner's promotion as Post Graduate Teacher in Tamil in the school of the 4th respondent in proceeding No.1060 B/ A1/2012 dated 25.04.2012 and grant her all the monetary benefits from the date of promotion.

For Petitioner

: Mr.C.K.M.Appaji

For R1 to R3

: Mr.N.Shamnuga Selvam

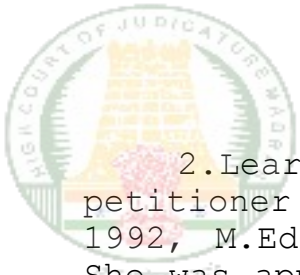
Additional Government Pleader

For R4

: Mr.P.Pethu Rajesh

For R5

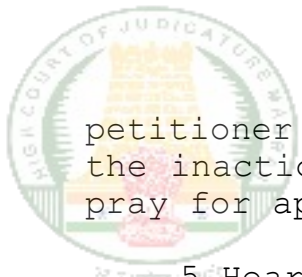
: Mr.T.Lajapathi Roy



2.Learned counsel for the petitioner would submit that the petitioner has completed BA Tamil in April 1983, B.Ed degree in 1992, M.Ed Tamil in 1995, M.A. Tamil in 1997 and M.Phil in 2009. She was appointed as a Graduate Teacher in the 4th respondent school and on the same day, Mrs.M.Manonmony was also appointed as Graduate Teacher in Tamil in the same school. While so, on 31.05.2010, a Post Graduate Teacher in Tamil subject fallen vacant in the 4th respondent school due to the retirement of the then incumbent and to fill up the said vacancy, 4th respondent by resolution dated 02.02.2011 recommended the 5th respondent by way of promotion and since the 5th respondent is a cross major underwent B.A. Economics and M.A. Tamil and junior to the petitioner, the respondents 2 and 3 objected to the promotion of the 5th respondent. Thus, the 4th respondent by resolution dated 05.01.2012 recalled the promotion of the 5th respondent and by another resolution dated 25.04.2012, promoted the petitioner to the post of Post Graduate Tamil Teacher with effect from 25.04.2012 and forwarded the said resolution to the respondents 2 and 3 for approval.

3.It is further submitted that the 5th respondent had filed W.P (MD)No.225 of 2012 to approve her promotion as Post Graduate Teacher in Tamil in the 4th respondent school and also filed W.P(MD) No.8269/2014 challenging the petitioner's promotion dated 25.04.2012. This Court by order dated 02.04.2013 dismissed W.P(MD) No.225 of 2012 and W.P(MD)No.8269/2014 was withdrawn by the 5th respondent on 25.02.2014. Thereafter, the petitioner made representation to the respondents 1 to 3 to approve her promotion and since no order was passed, the petitioner has filed the present writ petition in W.P(MD)No.1289/2015. Aggrieved by the cancellation of promotion by the school committee, the 5th respondent has filed W.P(MD)No.15834/2014 for issuance of a Writ of Mandamus, directing the respondents to consider her for promotion to the post of Post Graduate Teacher in Tamil in the 4th respondent school with all consequential benefits within the time frame to be fixed by this Court.

4.The 4th respondent school has filed counter affidavit in W.P (MD)No.1289/2015 and the learned counsel for the 4th respondent would state that though both the petitioner and the 5th respondent/Manonmani possessed M.A(Tamil) degree coupled with B.Ed., the petitioner has studied in the straight major of education i.e., after getting B.A(Tamil) degree, completed M.A(Tamil), whereas, the 5th respondent after completion of B.A(Economics), completed M.A (Tamil) and therefore, when two candidates are claiming promotion to the post of Post Graduate Teacher(Tamil), then, preference shall be given to the candidate who has obtained under graduate and master graduate on the same subject and accordingly, the petitioner was promoted to the said post and the proposal was sent for approval which is still pending with the 3rd respondent, thereby, the



petitioner is forced to work from 25.04.2012 without salary due to the inaction on the part of the respondents 1 to 3. Thus, he would pray for appropriate orders.

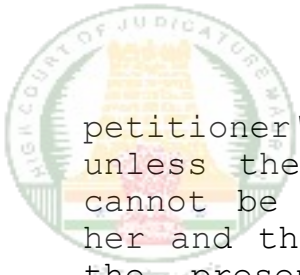
5. Heard both sides.

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6. Perusal of record shows that the petitioner has completed BA Tamil in April 1983, B.Ed degree in 1992, M.Ed Tamil in 1995, M.A. Tamil in 1997 and M.Phil in 2009 and on 31.05.2010, a Post Graduate Teacher(Tamil) fell vacant due to the retirement of the then incumbent and the 4th respondent by resolution dated 02.02.2011 recommended the 5th respondent for promotion to the said post and forwarded a proposal to the respondents 2 and 3 to approve her appointment. Since the 5th respondent is a cross major subject in under graduate and post graduate degrees and also junior to the petitioner, the respondents 2 and 3 objected to the candidature of the 5th respondent for promotion to the said post and therefore, the 4th respondent by resolution dated 05.01.2012 recalled the promotion granted to the 5th respondent as Post Graduate Teacher(Tamil) and promoted the petitioner to the said post by resolution dated 25.04.2012 taking into consideration the age, seniority and her under graduation and post graduation in Tamil subject and the resolution dated 25.04.2012 was forwarded to respondents 2 and 3 for approval. In the meanwhile, the 5th respondent filed W.P(MD) No.225/2012 to approve her promotion as Post Graduate Teacher in the 4th respondent school with all monetary benefits and the said writ petition was closed by order dated 02.04.2013 holding that only after the disposal of W.P(MD)No.8269/2012 filed by her challenging the petitioner's promotion as Post Graduate Teacher(Tamil) in the 4th respondent school, she cannot seek for approval.

7. Perusal of record also shows that the petitioner has withdrawn W.P(MD)No.8269/2012 on 25.02.2014 and therefore, there is no embargo for the the official respondents to ratify the promotion given to the petitioner as Post Graduate Teacher(Tamil) in the 4th respondent school with effect from 25.04.2012. Learned Additional Government Pleader appearing for the official respondents would state that the proposal seeking approval of the petitioner's promotion has been returned for compliance of certain defects. Therefore, the 4th respondent school is directed the rectify the defects and shall send the proposal forthwith to the respondents 2 and 3 who shall approve the promotion of the petitioner from the date of her promotion. Such exercise shall be done within a period of twelve weeks from the date of receipt of the proposal from the 4th respondent. Accordingly, W.P(MD)No.1289/2015 is allowed.

8. In view of the allowing of W.P(MD)No.1289/2015, W.P(MD) No.15834/2014 is liable to be dismissed. The petitioner in this writ petition had already filed W.P(MD)No.225/2012 to approve her promotion and also filed W.P(MD)No.8269/2012 challenging the



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petitioner's promotion. W.P(MD)No.225/2012 was closed stating that unless the petitioner succeeds in W.P(MD)No.8269/2012, the relief cannot be granted and W.P(MD)No.8269/2012 itself was withdrawn by her and therefore, she is not entitled to the relief sought for in the present writ petition and hence, W.P(MD)No.15834/2014 is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1)The Directorate of School Education,
DPI Compound, College Road,
Egmore, Chennai-8.
- 2)The Chief Educational Officer,
Kanyakumari District at Nagercoil.
- 3)The District Educational Officer,
Kanyakumari District at Nagercoil.
- 4)The Director of School Education,
College Road, Nungambakkam,
Chennai-6.

+2 CC to Mr.T.LAJAPATHI ROY, Advocate (SR-104124,104128[F] dated 10/12/2019)

+1 CC to Mr.C.K.M.APPAJI, Advocate (SR-104014[F] dated 09/12/2019)

+1 CC to Mr.P.PETHU RAJESH, Advocate (SR-104271[F]dated 10/12/2019)

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