



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2019

CORAM :

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.14593 of 2015

and

M.P (MD)Nos.1 and 2 of 2015

K.R.Jency Hemalatha

... Petitioner

vs.

- 1)The State of Tamilnadu,
Rep. by its Secretary,
Department of School Education,
Fort St.George, Chennai-09.
- 2)The Director of Elementary Education,
College Road, Chennai-06.
- 3)The District Elementary Educational Officer,
Trichy, Trichy District.
- 4)The Assistant Elementary Educational Officer,
Marungapuri,
Trichy District.
- 5)The Additional Assistant Elementary
Educational Officer, Marungapuri Union
at Kovilpatti-621 305,
Trichy District.
- 6)C.R.Stanis Rethinam
- 7)J.Vickneswaran

... 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 proceedings issued by the 3rd respondent District Elementary Educational Officer in Na.Ka.No.2630/A3/2014 dated 01.11.2014 promoting the 6th respondent C.R. Stanis Rethinam as BT Assistant in Mathematics and Na.Ka.No.2630/A3/2014 dated 01.11.2014 promoting the 7th respondent J. Vickneswaran as BT Assistant in Mathematics, quash the same and further direct the respondents to include the name of the petitioner in the panel for promotion as BT Assistant in Mathematics as on 01.01.2014 and promote the petitioner as BT Assistant in Mathematics as on 01.01.2014 and promote the petitioner as BT Assistant in Mathematics.

For Petitioner

: Mr.S.Xavier Rajini



For R1 to R5 : Mr.N.Shamnuga Selvam
Additional Government Pleader
For R6 : Mr.S.Arunachalam
For R7 : No appearance

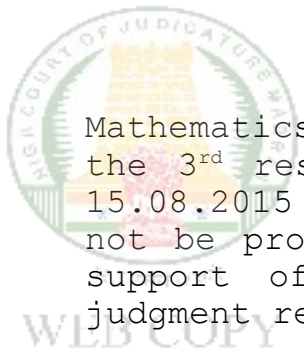
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ORDER

The prayer in the writ petition is for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 3rd respondent District Elementary Educational Officer in Na.Ka.No.2630/A3/2014 dated 01.11.2014 promoting the 6th respondent C.R. Stanis Rethinam as BT Assistant in Mathematics and Na.Ka.No.2630/A3/2014 dated 01.11.2014 promoting the 7th respondent J. Vickneswaran as BT Assistant in Mathematics, quash the same and further direct the respondents to include the name of the petitioner in the panel for promotion as BT Assistant in Mathematics as on 01.01.2014 and promote the petitioner as BT Assistant in Mathematics.

2.Learned counsel for the petitioner would state that the petitioner joined as Secondary Grade Teacher in the Panchayat Union Middle School, Chennasamuthiram, Chengam Union, Thiruvannamalai District on 29.02.2008. The petitioner passed B.Sc(Mathematics) in 2000, Diploma in Teacher Education (D.T.Ed) in 2003 and B.Ed degree in 2012 and the same were entered in her service register. The service of the petitioner was regularised from the date of appointment. While so, the respondents 3 to 5 prepared a seniority list of eligible teachers as on 01.01.2014 for Marungapuri Union for promotion to the post of B.T Assistant in Mathematics. On 10.06.2014, the 3rd respondent issued seniority list without indicating about the passing of B.Sc(Mathematics) and B.Ed degree by the petitioner and consequently in the promotion panel, the petitioner's name was not included, whereas, the 6th respondent who is the petitioner's junior was included. Therefore, the petitioner made a representation dated 17.06.2014 to the 3rd respondent to enter her B.Sc degree in Mathematics and B.Ed degree in the seniority list as per the entry in her service register so as to include her name in the promotional panel above the 6th respondent. However, to her shock and surprise, impugned proceedings were issued, by which, her juniors namely, respondents 6 and 7 were promoted and they also joined the promotional post. Therefore, the petitioner made a representation dated 03.11.2014 to the 3rd respondent to promote her stating that she is senior to the respondents 6 and 7 and the 3rd respondent intimated that he will promote her in the future vacancy. Again, she made a representation on 02.06.2015 requesting to include her name in the promotional panel and to give promotion on par with her juniors.

3.It is further submitted that the 3rd respondent prepared the promotional panel for promotion to the post of B.T Assistant in



Mathematics as on 01.01.2015 and had not published the same. Since the 3rd respondent indicated that he would conduct counselling on 15.08.2015 and 16.08.2015 for promotion, apprehending that she would not be promoted, the petitioner has filed this writ petition. In support of his contentions, learned counsel would rely on the judgment reported in (2014) 1 MLJ 553.

4.The 4th respondent filed counter affidavit. Learned Additional Government Pleader appearing for the respondents 1 to 5 would state that B.Sc(Maths) and B.Ed qualification possessed by the petitioner were not obtained from the appropriate authorities and even her probation was declared by order dated 31.12.2014 with effect from 28.02.2010 subject to the condition that the genuineness of her +2 qualification should be obtained from the appropriate authorities and entered in the service register and therefore, the petitioner cannot seek promotion on par with respondents 6 and 7 and now the petitioner's name has been included in the panel for the year 2015. He would further submit that if the petitioner is really aggrieved over her non inclusion in the panel, she ought to have made representation/appeal before the higher authorities, but she did not even turn up for verification of the panel list nor took up the matter to the higher authorities and suppressing these facts, she has filed the present writ petition and therefore would pray for dismissal of the writ petition.

5.There is no appearance for the 7th respondent either in person or through counsel. The counter filed by the 7th respondent reads that genuineness of the 10th and D.TEd qualification of the petitioner had been entered in her service register on 05.04.2014 and genuineness of her B.Ed and B.Sc qualification had been entered on 17.02.2014 and 10.04.2014 respectively and since genuineness of her +2 qualification could not be produced during the relevant point of time, her probation had been declared by order dated 31.12.2014, declaring probation with effect from 28.02.2010 subject to the condition that genuineness of her +2 qualification should be entered in the service register and therefore she was not considered for promotion on 01.01.2014 and her immediate juniors namely, respondents 6 and 7 were rightly considered and promoted and therefore, there is no infirmity in the impugned orders. Thus he would pray for dismissal of the writ petition.

6.Heard both sides.

7.Perusal of record shows that pending declaration of probation, the respondents 1 to 5 did not include the petitioner's name in the promotion panel dated 01.01.2014 and it is the contention of the respondents 1 to 5 that when the objections were called for before the panel dated 01.01.2014 was finalised, the petitioner did not adduce any single reason nor she approached the higher authorities in this regard. The learned Additional



Government Pleader would state that after completion of verification, now the petitioner's name has been included in the 2015 panel. Be that as it may, it is an admitted fact that the petitioner has the prescribed qualification and for want of verification of the certificates, it was not entered in her service register. Verification has to be done by the authorities and the delay in verification cannot be attributed to the petitioner. It is not in dispute that the petitioner's probation was declared with effect from 28.02.2010, and therefore, automatically her seniority has to be restored and she should be included in the promotional panel dated 01.01.2014 on par with the respondents 6 and 7/immediate juniors. Learned counsel for the petitioner would state that the petitioner is ready to forgo the monetary benefits. Therefore, in the above circumstances of the case, the respondents 1 to 5 are directed to restore the seniority of the petitioner and promote the petitioner notionally from the day his immediate junior was promoted and without any monetary benefits. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(Crl Side)

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Sub Assistant Registrar(CS)

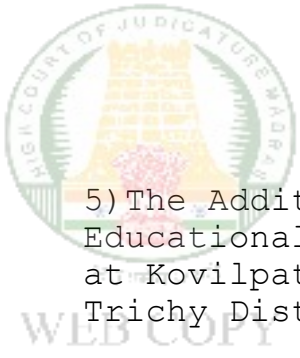
To

1)The Secretary,
Department of School Education,
State of Tamilnadu,
Fort St.George, Chennai-09.

2)The Director of Elementary Education,
College Road, Chennai-06.

3)The District Elementary Educational Officer,
Trichy, Trichy District.

4)The Assistant Elementary Educational Officer,
Marungapuri,
Trichy District.



5) The Additional Assistant Elementary
Educational Officer, Marungapuri Union
at Kovilpatti-621 305,
Trichy District.

+1 CC to M/s.S.XAVIER RAJINI, Advocate (SR-104092[F] dated
09/12/2019)

+1 CC to M/s.SPL GP (SR-104182[F] dated 10/12/2019)

ORDER MADE IN
W.P(MD)No.14593 of 2015
DATED : 06.12.2019

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TR(03.01.2020) 5P 8C