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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.24749 of 2019

and

W.M.P. (MD) No.21352 of 2019

K.Selvakumar

... Petitioner

-Vs-

1.State of Tamil Nadu,
Represented by its Principal Secretary,
Department of School Education,
Secretariat, Fort St.George, Chennai-600 009.

2.The Director of School Education,
Directorate of School Education,
DPI Campus, College Road, Chennai-6. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to revise the seniority panel drawn for the post of Higher Secondary School Headmaster by considering the objections of the petitioner and include the petitioner's name in the Seniority Panel for promotion to the post of Higher Secondary School Headmaster as on 01.01.2019 in the light of the judgments of the Madras High Court in W.P.No.4991 of 2015, dated 30.07.2019, within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajpathi Roy
For Respondents : Mr.A.Thiagarajan,
Government Advocate.

ORDER

This Writ Petition is filed to direct the respondents to revise the seniority panel drawn for the post of Higher Secondary School Headmaster, by considering the objections of the petitioner and include the petitioner's name in the Seniority Panel for



promotion to the post of Higher Secondary School Headmaster as on 01.01.2019, in the light of the judgment of the Principal Seat of this Court in W.P.No.4991 of 2015, dated 30.07.2019, within the time period that may be stipulated by this Court.

2.Mr.A.Thiagarajan, learned Government Advocate takes notice on behalf of the respondents. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.According to the petitioner, he was appointed as Post Graduate Teacher on consolidated pay by the Teachers Recruitment Board on 10.07.2004. Subsequently, the petitioner was brought on time scale of pay by issuing G.O.Ms.No.99, School Education Department, dated 27.06.2006. The second respondent has published the provisional seniority list for the promotion to the post of Higher Secondary School Headmaster. However, the petitioner's name was not included in the said list. The petitioner gave objections and requested the respondents to fix his seniority, taking into account his date of appointment as 10.07.2004. The second respondent has published the list on 16.11.2019, who are eligible to be promoted as Higher Secondary School Headmaster and called for objections, if any. The petitioner has given his objections on 18.11.2019.

4.According to the learned counsel appearing for the petitioner, the second respondent, without considering the objections and including the name of the petitioner in the list for promotion, is taking steps to promote the persons mentioned in the list, including his juniors. Hence, the petitioner has come out with the present Writ Petition.

5.From the materials on record, it is seen that the petitioner was appointed as Post Graduate Teacher on 10.07.2004 on consolidated pay by Teachers Recruitment Board. The said appointment is as per Rule in the sanctioned post. The Hon'ble Apex Court in the judgment reported in **1990 (2) SCC 715 (Direct Recruit Class II Engineering Officers' Association Vs. State of Maharashtra and others)** has differentiated the position of persons, who were appointed to a post, as per the rules, ad-hoc basis and not according to the Rules where the appointment was purely a stop-gap arrangement. The Hon'ble Apex Court held that preference would be given for the persons, who were appointed as per the rules. In the present case, the petitioner is appointed as per the rules and therefore, his appointment with effect from 10.07.2004 has to be taken into consideration, even though he was appointed on consolidated pay.

6.In view of the above facts, the second respondent is



directed to consider the objections of the petitioner dated 18.11.2019 on merits and pass orders, in accordance with law, within a period of two weeks from the date of receipt of a copy of this order.

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7. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Principal Secretary,
State of Tamil Nadu,
Department of School Education,
Secretariat, Fort St. George, Chennai-600 009.

2. The Director of School Education,
Directorate of School Education,
DPI Campus, College Road, Chennai-6.

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-100966[F] dated 25/11/2019)

+1 CC to M/s.SPL GP (SR-101135[F] dated 25/11/2019)

W.P. (MD) No.24749 of 2019

22.11.2019

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