

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.39948 OF 2018

ORDER:

This writ petition is filed seeking a Writ of Mandamus, declaring the action of the respondents, particularly the action of respondent No.4, in not approving Headmaster promotion proceedings issued by the 1st respondent Management *vide* proceedings dated 20.08.2013, consequent to lifting of ban on promotions in Aided Schools even though the petitioner is fully eligible and qualified for the above promotion, in spite of repeated requests as arbitrary, illegal, unjust, improper and violative of Articles 14, 16 and 21 of the Constitution of India and sought a consequential direction to the respondents to forthwith approve the promotion proceedings issued by the 1st respondent *vide* proceedings dated 20.08.2013, whereby the petitioner is promoted as Head Master in CSI HS (JN) (T/M), Kamareddy, with all consequential benefits, such as, seniority and monetary benefits attached to the post, as he has been discharging the duties of Head Master since the date of his promotion.

Heard Sri S.Satyanarayana Rao, learned counsel for the petitioner, and the learned Government Pleader for School Education appearing for the respondents.

It has been contended by the petitioner that initially he was appointed as School Assistant (Maths) in the 1st respondent School on 01.09.1986 and since then he has been discharging his duties to the

best satisfaction of his superiors and every one concerned. The petitioner further submits that he is fully eligible and qualified to be appointed to the post of Head Master and as per the Rules, one must pass Accounts Test for promotion to the post of Headmaster. The petitioner also submits that he has crossed 45 years of age and as per the Rules issued in G.O.Ms.No.165 dated 22.04.1997 and G.O.Ms.No.225 dated 18.05.1999, the Government employees who have crossed 45 years of age are exempted from passing the Departmental Test/Special Test prescribed in the Special Rules/Adhoc Rules for the purpose of promotion to the next higher category. The petitioner further submits that the post of School Assistant, the cadre in which he was working, was admitted into grant-in-aid and when a regular vacancy arose in the cadre of Headmaster in the 1st respondent School, he was promoted as Headmaster even though he has not passed the Accounts Test by that time, on the ground that he is exempted from passing the Departmental Test in terms of G.O.Ms.No.165 dated 22.04.1997 and G.O.Ms.No.225 dated 18.05.1999. The petitioner was promoted as Headmaster vide proceedings dated 20.08.2013 and on the same day i.e., 20.08.2013, the 1st respondent has submitted proposals to the District Educational Officer – 2nd respondent so as to enable the 2nd respondent to forward the same to the 4th respondent. Thereafter, the 2nd respondent forwarded the said proposals to the 4th respondent, but the 4th respondent is not passing any orders thereon and, on the other hand, the 4th respondent sought clarification from the 5th respondent vide

letter dated 13.01.2015 stating that the petitioner was not qualified for promotion as on the date of promotion, since he has not passed the Accounts Test by that time and later on the petitioner has passed the Accounts Test and, as such, requested the 5th respondent to issue necessary orders. The petitioner, therefore, contends that the action of the 4th respondent in not approving the promotion in pursuance of the proposals submitted by the 1st respondent is illegal, arbitrary and contrary to G.O.Ms.No.165 dated 22.04.1997 and G.O.Ms.No.225 dated 18.05.1999.

Therefore, learned counsel for the petitioner submitted that appropriate orders be passed in the writ petition directing the 4th respondent to pass appropriate orders on the proposals submitted by the 1st respondent for approval of the promotion of the petitioner as Headmaster by duly taking into account G.O.Ms.No.165 dated 22.04.1997 and G.O.Ms.No.225 dated 18.05.1999 and without insisting that the petitioner should pass Account Test.

Learned Government Pleader appearing for the respondents had submitted that by the time the petitioner passed Departmental Test and obtained the pass certificate, the State Government imposed ban for filling up the aided vacancies and the 1st respondent has promoted the petitioner even though he is ineligible for promotion, hence, there are no merits in the writ petition and the writ petition is liable to be dismissed.

This Court, having considered the rival submissions of learned counsel for parties, is of the considered view that this writ petition can be disposed of directing the 4th respondent to consider the proposals submitted by the 1st respondent for approval of the promotion of the petitioner as Headmaster without insisting for a pass in Accounts Test, by duly taking into account G.O.Ms.No.165 dated 22.04.1997 and G.O.Ms.No.225 dated 18.05.1999 and also the fact that the petitioner has crossed 45 years of age, and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

With the above directions, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

15th July, 2019
v v