

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 10933 OF 2013

B.Kanchana

.. Petitioner

- Vs -

1. The State of Tamil Nadu
rep. By the Director
School Education
Directorate of School Education
Chennai 600 006.
2. Joint Director (Personnel)
School Education
Directorate of School Education
Chennai 600 006.
3. Chief Educational Officer
Vellore District, Vellore.
4. District Elementary Educational Officer
Vellore District, Vellore.
5. Assistant Elementary Educational Officer
Arakonam, Vellore District.
6. Headmaster
Government Boys Hr. Sec. School
Takkolam, Vellore District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records having of the 2nd respondent pertaining to his order made in O.Mu.No.047698/A4/E3/2010 dated 11.11.2010 and the order of the 3rd respondent made in Aa.Thi.Mu.No.926/A1/2011 dated Nil June 2011 and quash the same and consequently direct the respondents 1 to 3 to advance the date of promotion to the cadre of Assistant to the petitioner at par with her juniors with all attendant service benefits, including arrears of pay and allowances.

For Petitioner : Mr. R.Malaisamy

For Respondents: Mr. A.N.Thambidurai,
Spl. GP for RR-1 to 5

ORDER

The petitioner was initially appointed as typist on 4.3.84 at Peramanallur, Tiruvannamalai and joined the post on 24.3.84 and presently, the petitioner is working as Assistant in the office of the Assistant Elementary Education Officer, Nemili. It is the case of the petitioner that though she has qualified herself for promotion to the cadre of Assistant with effect from 12.1.94, however, her name has not been considered, while juniors to her have been promoted. In this connection the petitioner made a representation to respondents 1 and 2 claiming promotion on par with her juniors. On such representation, the case of the petitioner was considered and she was promoted as Assistant on 4.1.95. Joining the said post, the petitioner immediately submitted another representation to respondents 1 and 2 requesting them to advance her promotion to the said cadre on par with her juniors to which the 1st respondent vide his proceedings dated 12.2.96 informed her that her request for advancement of promotion on par with her juniors and her seniority would be considered when her services are being regularised. In spite of several representations time and again by the petitioner, the matter stood at the same stage and her case was not considered. However, after a lapse of 15 years, the 2nd respondent, vide his proceedings dated 11.11.10 rejected the request of the petitioner citing Rule 35 (f) of the Tamil Nadu State and Subordinate Service Rules. It is the case of the petitioner that the delay is attributable only to respondents 1 and 2 and not to her as her repeated requests were not considered in proper perspective. Hence, the petitioner has been constrained to move this Court by filing the present petition.

2. Learned counsel appearing for the petitioner reiterated the submissions as raised in the grounds in support of his plea and vociferously contended that the delay on the part of the 1st and 2nd respondents in not considering the petitioner's representation in proper perspective and passing appropriate orders cannot be put against the petitioner to nullify her claim. Learned counsel prayed that the impugned order is liable to be interfered with and the respondents should be directed to consider the petitioner's representation in proper perspective and pass appropriate orders advancing her promotion and also refixing her seniority on par with her juniors.

3. Learned Special Government Pleader appearing for the official respondents, while sought to sustain the impugned order, however, submitted that this Court may direct the respondents to consider the petitioner's representation, uninfluenced by the delay, in accordance with law within a particular time frame.

4. This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

5. The facts in issue are not in dispute so also the various representations submitted by the petitioner requesting for advancing her promotion and refixation of seniority on par with her juniors. In fact, the 1st respondent, vide his proceedings dated 12.2.96 has accepted the case of the petitioner and has stated that her interests both in respect of advancement in promotion as well as refixation of her seniority on par with her juniors will be considered at the time of regularization. The other representations thereafter have also been acknowledged and acted upon assuring the petitioner that at the proper time, her case will be considered positively. However, keeping silent for more than a decade and a half, the present impugned proceedings have been passed, which is neither in good spirit or does have the support of law. The reasons for passing the said order is not only invisible, but this Court is also unable to comprehend the act of the respondent in passing the said order without taking into consideration the fact that the delay is attributable only to the respondents and no fault can be attributed to the petitioner. Therefore, the order passed by respondents 2 and 3 deserves to be set aside.

6. For the reasons aforesaid, this writ petition is allowed directing the respondents to consider the petitioner's representation for advancement of promotion and refixation of her seniority on par with her juniors, uninfluenced by any delay that may have occasioned, and decide the issue on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

GLN

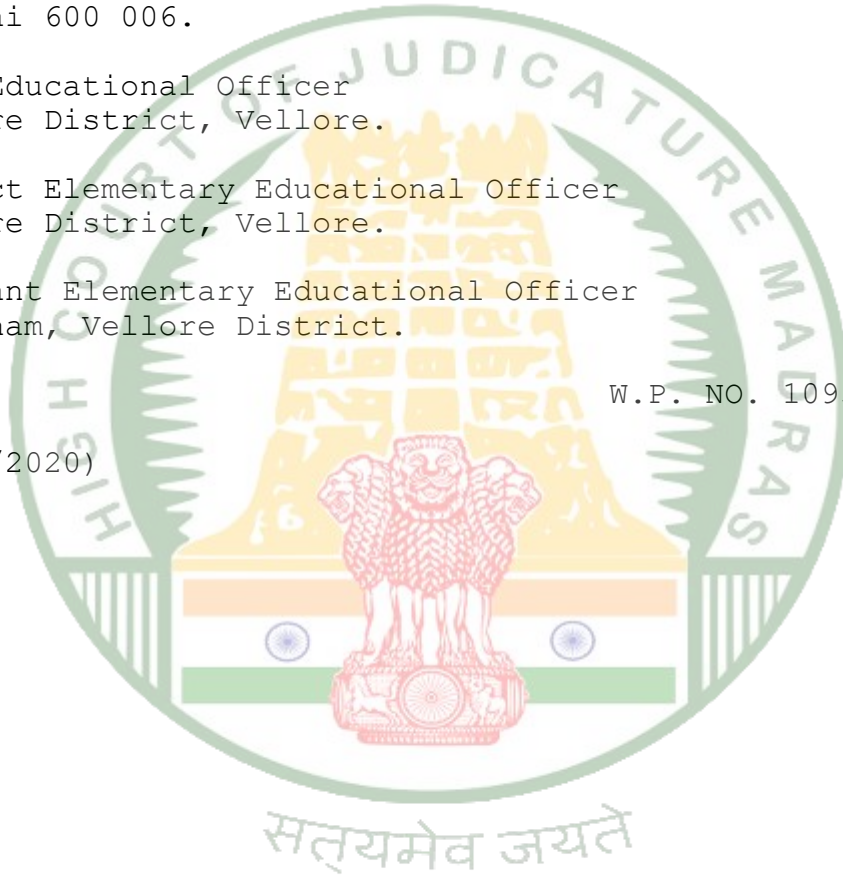
To

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School Education Department
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RSV(CO)

RMP(24/07/2020)



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