

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 22.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.11271 of 2013
and
M.P.No.1 of 2013

M.S.Sivakumar

.. Petitioner

- Vs -

- 1.State of Tamilnadu
Rep. By the Secretary to Government
Education Department,
Fort. St.George,
Chennai 600 049.
- 2.The Director of School Education,
Chennai 600 006.
- 3.District Educational Officer,
Chennai North, Egmore,
Chennai 600 008.
- 4.The Secretary School Committee,
Sir M.Ct.Muthaih Chettiar Higher Secondary School,
23, Raja Annamalai Road, Purasawalkam,
Chennai 600 084.
- 5.Tarun Ghai
The Correspondent, सत्यमेव जयते
Sir M.Ct.Muthaih Chettiar Higher Secondary School,
23, Raja Annamalai Road, Purasawalkam,
Chennai 600 084.
- 6.C.J.Gnanasekar,
Tamil Pandit,
Sir M.Ct.Muthaih Chettiar Higher Secondary School,
23, Raja Annamalai Road, Purasawalkam,
Chennai 600 084.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, directing the 4th respondent to promote the petitioner as PG Teacher Tamil

in Sir M. Ct. Muthaih Chettiar Higher Secondary School, 23, Raja Annamalai Road, Purasawalkam, Chennai 600 084.

For Petitioner : Ms. Manimegalai Selvaraj

For Respondents: Mr.S.Suresh Kumar, for RR1 to 3
:M/S.Najeeb Usman Khan for R4
: M/S.Malarvizhi Udayakumar for R5

ORDER

This Writ petition has been filed by the petitioner to direct the 4th respondent to promote the petitioner as PG Teacher Tamil in Sir M. Ct. Muthaih Chettiar Higher Secondary School, 23, Raja Annamalai Road, Purasawalkam, Chennai 600 084.

2.The Case of the petitioner is that petitioner passed B.Sc. Mathematics and B.Ed and MA Tamil and he was working as a Teacher in the 4th respondent school since 1993. Thereafter, he promoted as Secondary Grade Teacher at the time of filing this writ petition he was working as School Assistant with effect from 01.06.2006. Whiles, the 6th respondent also started his career as a teacher in the 4th respondent school and he has passed B.A. (Tamil), B.Ed and MA (Tamil) and Tamil Pandit in the year 2006. Both were qualified to be promoted. According to the petitioner, he is the senior most person available in the institution however, without considering his case for promotion to the next level of Post Graduate Teacher, the school correspondent promoted the 6th respondent as a Post Graduate Teacher, which was not approved by the educational authorities as well as the Government. Neither the school committee nor the educational authorities approved the said promotion. Aggrieved against the promotion of the 6th respondent, the petitioner has filed this writ petition.

3. Learned counsel appearing for the petitioner while reiterating the submissions raised in the grounds in support of his plea, stressed that the petitioner is fully eligible and fit for promotion, however the ineligible candidate namely 6th respondent was appointed by the school correspondent namely 5th respondent without getting approval of the 4th respondent and the said appointment was also not approved by the educational authorities. Further the 6th respondent by producing bogus certificate, obtained appointment and his certificate is not valid. Without considering the same, the 5th respondent appointed the 6th respondent is wholly unsustainable and impermissible.

4. Per contra, the learned counsel appearing for the 5th respondent submitted that the petitioner had involved himself in a criminal case, which has been lodged against him for his

act of damaging the school furnitures and the criminal case is pending before the competent forum. Since a criminal case was pending as against the petitioner, he was found not fit for being considered for promotion and, thereby the 6th respondent was promoted to the post of PGT. Further, there was some tussle in the management of the school due to which direct payment was ordered. Learned counsel fairly conceded that the appointment of the 6th respondent has not yet been approved by the educational authorities. It is the further submission of the learned counsel for the petitioner that the petitioner has since retired from service on 31.05.2019 hence nothing survives for adjudication in this case.

5. Learned Government Advocate appearing for the official respondents 1 to 3 submitted that the 6th respondent had underwent M.A. (Tamil) and B.Ed., course simultaneously and so he is not eligible to be considered for promotion as P.G.T. Government Orders are there to the effect that the persons underwent M.A and B.Ed course simultaneously, could not be given promotion. Therefore, the promotion of the 6th respondent as P.G. Assistant Tamil has not been approved by the 3rd respondent, since the school is under direct payment. Whenever the ban of direct payment is lifted then only the promotion of the 6th respondent would be scrutinized and necessary appropriate orders would be passed by the 3rd respondent. At present the school is under direct payment in view of the orders of the 3rd respondent dated 29.02.2012, due to certain disputes between the teachers and the management of the school. Only after lifting of the direct payment to the school, the matters of administration of the school will be considered by the respondents 1 to 3.

6. This Court heard the submissions advanced by both side learned counsel as well as perused the materials available on record.

7. The main grievance of the petitioner is that the 5th respondent promoted the 6th respondent, which has not been approved by the school committee/4th respondent and the educational authorities. It is an accepted position that the promotion granted to the 6th respondent would stand fructified only when approval is accorded by the educational authorities. Further, a perusal of the records also reveal that it has been informed to the 6th respondent that his promotion is subject to the outcome of the final disposal of the pending cases. It is also borne out by record that the petitioner has not challenged the appointment of the 6th respondent, but the petitioner has merely filed this writ petition for a mandamus to direct the 4th respondent to promote the petitioner as P.G.T.

8. In the facts and circumstances of the case, the petitioner not having challenged the order of appointment of the 6th respondent, no positive direction can be given in the present case. However, as already pointed out, the outcome of the pending cases would only decide the fate of approval of the promotion of the 6th respondent. In such view of the matter, this Court, without going into the merits of the issue, is of the considered view that it would be suffice to direct respondents 1 to 4 to consider the case of the petitioner for notional promotion, if found fit, in the event of the promotion granted to the petitioner not being approved by respondents 1 to 4.

9. Accordingly, this writ petition is disposed of with the aforesaid observation and direction. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government
Education Department,
Fort. St. George,
Chennai 600 049.
2. The Director of School Education,
Chennai 600 006.
3. The District Educational Officer,
Chennai North, Egmore,
Chennai 600 008.

+1cc to the Government pleader sr.25183

W.P. NO.11271 /2013

vba[co]/
srg 17/08/2020