

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :14.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 14911 OF 2013

and

M.P.No.2 of 2013

P.SethuBai

.. Petitioner

- Vs -

1. The Director of School Education,
DPI Compound ,
College Road, Chennai 600 006.

2. The Chief Educational Officer,
Erode 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 pertaining to the impugned order in Na.Ka. No. 98000/ W1/ E1/2012 dt 10.4.2013 on the file of the respondent No.1 and quash the same as illegal in respect of the petitioner is concerned and consequently direct the respondent No.1 to include the petitioner's name in the seniority list drawn as on 1.1.2013 for promotion to the post of Head Master in Higher Secondary Schools for the year 2013 in the appropriate place within time stipulated by this Court.

For Petitioner :No Appearance

For Respondents: Mr.S.Suresh Kumar, G.A.

ORDER

This Petition has been filed by the writ petitioner, to call for the records pertaining to the impugned order in Na.Ka. No. 98000/ W1/ E1/2012 dt 10.4.2013 on the file of the respondent No.1 and quash the same as illegal in respect of the petitioner is concerned and consequently direct the respondent

No.1 to include the petitioner's name in the seniority list drawn as on 1.1.2013 for promotion to the post of Head Master in Higher Secondary Schools for the year 2013 in the appropriate place within time stipulated by this Court.

2.Though no one appeared on behalf of petitioner, however, considering the fact that the matter has been filed way back in the year 2013 and almost seven years have passed, this Court is inclined to take up the matter on merits and dispose of the same.

3.The Case of the petitioner is that the petitioner was working as Physical Director Grade I at Government Girls Higher Secondary School, Kavindhapadi, Erode district. The petitioner has completed M.A.(History), M.P.Ed and M.Phil in Physical Education and Sports Science. She has also completed B.Ed during May 2012. Originally on 07.07.1989 the petitioner was appointed as Physical Directress Grade I (Middle School) at Government Girls Higher Secondary School, Kavindhapadi, Erode District by direct recruitment through Tamilnadu Public Service Commission and she joined duty on 19.07.1989 and later by the proceedings of the 1st respondent dated 20.08.1993, she was appointed by transfer as Physical Directress Grade I at Higher Secondary Level in the existing vacancy of the same school since she was holding necessary M.P.Ed qualification for the said post. Subsequently by order dated 29.12.1994, her appointment as Physical Directress Grade I at Higher Secondary Level was regularised from the date of her original appointment i.e., on 19.07.1989. and thereafter the 2nd respondent by proceedings dated 21.02.2000 conferred selection grade to her with effect from 19.07.1999 on completion of ten years of service. Thereafter she was conferred Special Grade with effect from 19.07.2009 onwards, on completion of twenty years of service vide proceedings dated 02.02.2010. In the meanwhile, the petitioner has passed the departmental examinations for Account Test for Subordinate Officers, Part-I, Account Test for Executive Officers and Tamilnadu Government District Office Manual Test held during December, 2010. According to the petitioner her next avenue of promotion from Physical Directress is Head Master/Head Mistress. In order to avail such promotion, the petitioner has all the required qualification and completed all the examinations and is fully eligible for the said post. Whiles, the 1st respondent herein has given guidelines to the Chief Educational Officers in the State for sending the names of eligible PG Teachers/Physical Director Grade I for promotion to the post of Headmaster/Headmistress in the Higher Secondary Schools in their respective districts as on 01.01.2013 for preparing the seniority list throughout the State. Pursuant to the same, the petitioner's name was forwarded through the Head Master of her School. Whiles, the 1st respondent by his impugned proceedings dated 10.04.2013 informed that she cannot

be considered for promotion on the ground that she has not completed 10 years of service after acquiring B.Ed qualification as she had acquired B.Ed., qualification only in May 2012. Challenging the said impugned order, the present writ petition has been filed with the above said prayer.

4. Learned Government Advocate appearing for the respondents on instructions submitted that the claim of the petitioner that she is fully qualified for promotion as Headmaster of Higher Secondary School is null and void because she had passed B.Ed. Degree only in May 2012 and she has not completed ten years of service after acquiring B.Ed Degree and he further submitted that in G.O.Ms.No.94, School Education (HS2) Department, dated 22.06.2006, the Government of Tamil Nadu have issued the necessary amendment to the Special Rules for the Tamil Nadu Higher Secondary Educational Service (Section 37 in Volume II of the Tamil Nadu Services, Manual, 1969. According to the said G.O., the condition of the requirement of not less than ten years of service after acquiring a degree in teaching has been prescribed for all the feeder categories for promotion. Prescribing the requisite qualification and conditions for promotion to posts of administrative importance as headmaster of higher Secondary school is coming under the purview of the policy of the Government. It is further submitted that since the petitioner did not satisfy the condition stipulated by the Government, her case for promotion was rejected and, therefore, no interference is called for.

5. The facts in issue are not in dispute. A perusal of the counter affidavit reveals that though the petitioner has been in possession of academic qualifications and other relevant qualification for being considered for the post of Headmistress, however, the petitioner had qualified herself in B.E.d., only in the year 2012 and that she had not put in 10 years of service after acquiring B.E.d., qualification. In such a backdrop, the Government Order, which is a policy decision of the State, is directly against the petitioner. The Government Order cannot be said to be bad in law, as the said prescription has been made for all feeder category posts and no exclusion is made. It is within the purview of the State Government to impose reasonable and considerable restrictions for maintaining the standards not only in teaching, but also in the administrative side. Such being the case, the Government Order cannot be held to be bad. When once the petitioner does not satisfy the conditions imposed in the Government Order, the rejection of the name of the petitioner for the next higher post of Headmistress cannot be said to be unsustainable.

6. For the reasons aforesaid, this writ petition is dismissed. Consequently, connected miscellaneous petition is also dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

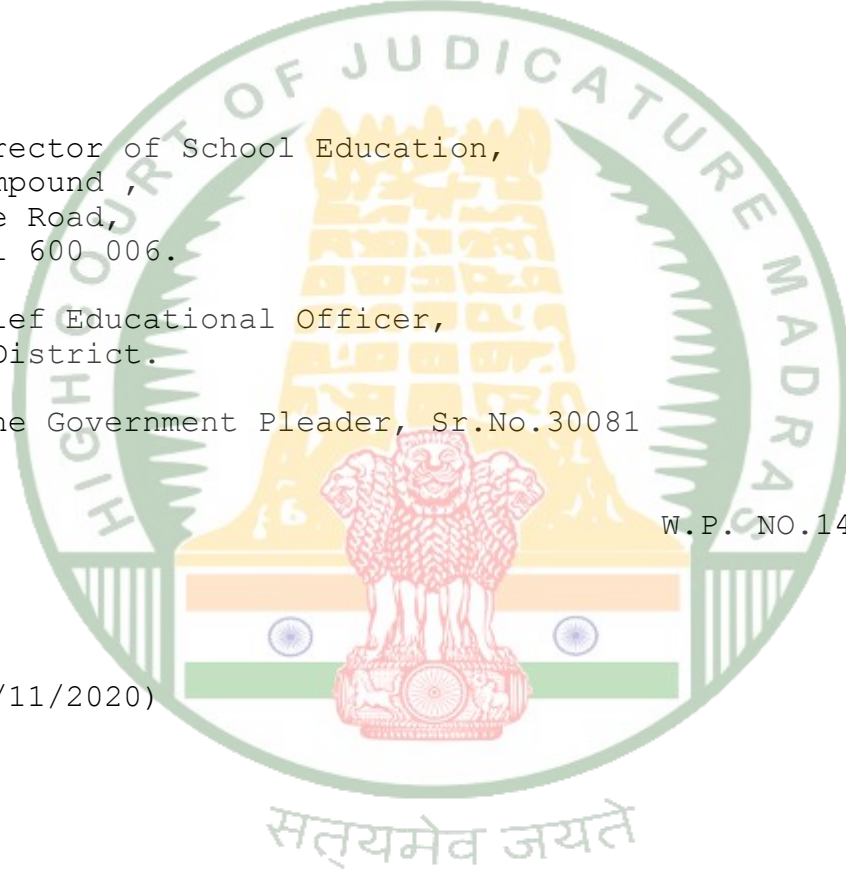
1. The Director of School Education,
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Chennai 600 006.

2. The Chief Educational Officer,
Erode District.

+1cc to the Government Pleader, Sr.No.30081

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