

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2020

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THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

WP.NOs.24261 & 24262 of 2013

M.Aruna ... Petitioner in WP.24261/2013
R.Tamilarasan ... Petitioner in
WP.24262/2013

Vs

- 1.The Director,
Elementary School Education,
College Road,
Chennai 600 006.
- 2.The Assistant Elementary Educational
Officer, Primary School Education,
Chengam,
Tiruvannamalai District.
- 3.The Assistant Elementary Educational
Officer, (Additional)
Primary School Education,
Chengam,
Tiruvannamalai District. ... Respondents in both WPs

Writ Petitions under Article 226 of the Constitution of India praying
for a Writ of Mandamus, directing the respondents 2 and 3 to grant
promotion to the petitioner from secondary grade teacher to B.T.Assistant

from 01.01.2011 by considering their representations dated 22.07.2013 .

In both WPs.

For Petitioners : Mr.R.Dilli Kumar

For Respondents : Mr.S.Suresh Kumar, GA

COMMON ORDER

As the relief sought for in both the petitions are similar, they are disposed of by this common order.

2. These Writ Petitions have been filed by the petitioners to direct the respondents 2 and 3 to grant promotion to the petitioner from secondary grade teacher to B.T. Assistant from 01.01.2011 by considering their representations dated 22.07.2013 .

3. The case of the petitioners is that they have completed B.Sc. (Maths) and B.Ed course in the year 2006 and 2008 respectively and registered themselves in the District Employment Exchange, Tiruvannamali. In the year 2008, both were selected and appointed for the post of Secondary grade teacher in the respondents school. On the basis of seniority both the petitioners were having qualification to be promoted for the post of B.T.Assistant. In the year 2010 respondents

authorities prepared the seniority panel and the petitioners were placed 5th and 6th in the priority list. However, in the panel prepared for promotion, the names of the petitioners were placed down below in the list and the objection submitted by the petitioners did not evoke any response and, therefore, the present petitions have been filed.

4. Learned counsel for the petitioners submitted that though the seniority list was published however the names of the petitioners were published in the down below in the seniority list, for which the petitioners made representations to the respondents, even thereafter, their representations were not considered. The objections were not considered in proper light by the respondents with reference to the seniority list prepared. Learned counsel appearing for the petitioner, while advanced many contentions, however, submitted that it would be suffice if this Court directs the respondents to consider the objections raised by the petitioners to the seniority list published and pass orders within a particular time frame fixed by this Court.

5. Learned Government Advocate appearing on behalf of the respondents submitted that during the pendency of the writ petitions, the

petitioners were given promotion to the post of Head master. Further, the seniority list was published in the year 2010 was not challenged and the seniority list has been given effect. Hence, at this belated point of time, the representations of the petitioners cannot be considered.

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

7. It is the admitted position that pending the writ petitions, the petitioners have been promoted to the next higher post. It is also the admitted position that the seniority list published by the respondents has not been challenged till this date and the seniority list has been given effect to in and by which the petitioners were also promoted. Therefore, at this distant point of time, in the absence of the seniority list being challenged, it would not be in the interest of the parties to yield to the relief sought for by the petitioner. The respondents had started the preparation of seniority list for panel promotion in the year 2010 and the same was completed in the same year. The petitioners have filed the

present petition in the year 2013 and by that time, the process of selection had come to an end and the eligible employees have been promoted in the said posts. Neither any interim orders were sought for nor was there any interim orders in operation in favour of the petitioners. Though it is the contention of the learned counsel for the petitioners that the said defect can be cured at any point of time, the said contention cannot be accepted for the simple reason that more than seven years have passed since the employees have been promoted and have been discharging their works in the said post and by this time, much water has flown under the bridge for this Court to interfere in the process of seniority list preparation for promotion. Therefore, it would be wholly unsafe to disturb the selection and promotion of employees, who have been appointed way back in the year 2013, almost after a period of seven years. Further, it is the categorical submission of the learned counsel for the respondents that persons, based upon the same seniority list, these petitioners were promoted to the post of Headmaster. In such a backdrop, this Court is of the considered opinion that in the absence of any material disproving the stand of the respondents, to disturb the process, which has attained finality almost seven years back, would not be

in the interest of justice as also the individuals, who have been promoted in the said post. Therefore, this Court, in the fitness of things, as pointed out above, is not inclined to accede to the relief sought for by the petitioner.

8. For the reasons aforesaid, these writ petitions, being devoid of merit, is accordingly dismissed. However, in the circumstances of the case, there shall be no order as to costs. However liberty is granted to the petitioners to work out their remedies in the manner known to law.

Index : Yes/No

Internet : Yes / No

jrs

21.07.2020

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To

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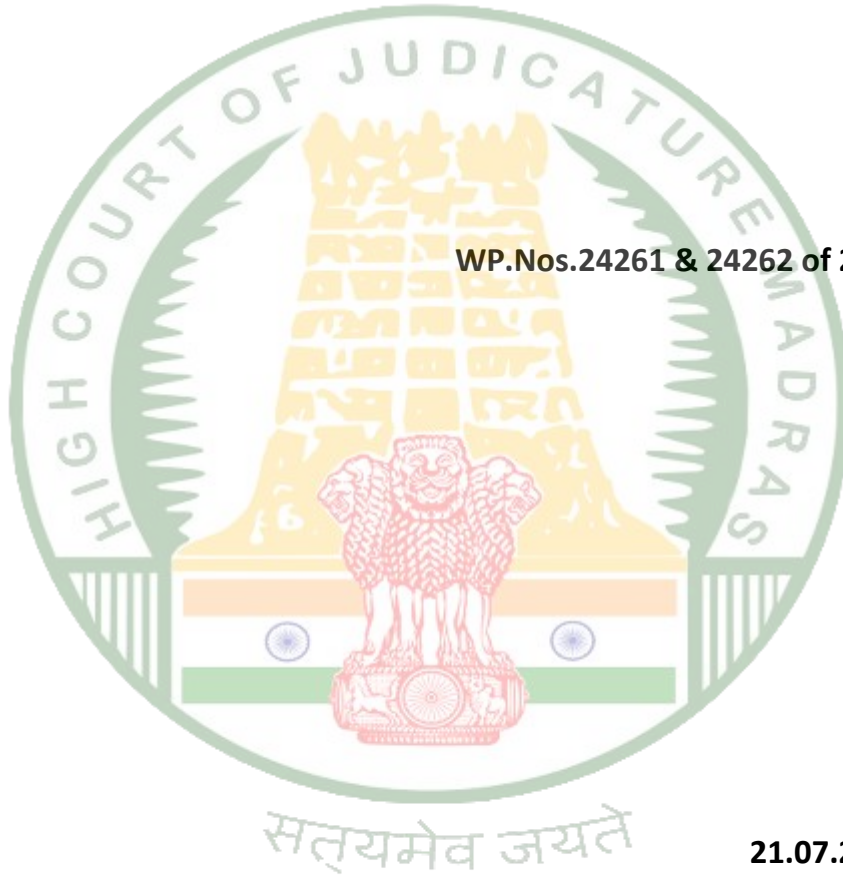


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