

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2020

Coram

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.6539 of 2013

A.V. Jaganathan

..Petitioner

-vs-

1. The Principal Secretary to the Government,
Labour and Employment department,
Fort St. George,
Chennai - 600 009.

2. The Director,
Employment and Training Department,
Guindy,
Chennai - 600 032.

3. E. Indira Kumari,

4. T. Easter Ruby Thangam

..Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents 1 and 2 not to promote the third and fourth respondents to the post of Principal in contravention to the Government Orders.

For Petitioner : Mr.P.Kannankumar

For Respondents : Mr.S.Thangavel,

Spl. Govt. Pleader for R1 & R2

ORDER

(This case has been heard through video conference)

This writ petition has been filed by the petitioner to forbear the respondents 1 and 2 not to promote the third and fourth respondents to the post of Principal in contravention to the Government Orders.

2. The case of the petitioner is that he acquired Diploma in Mechanical Engineering and appointed in Government service as Junior Training Officer and his appointment was done through Employment Exchange and subsequently he was promoted to the post of Training Officer. As such, the next level of promotion is Principal. Further as per G.O. Ms.No.49 Employment and Training Department, dated 26.09.1983, persons who have qualified in Engineering / Technology alone are eligible for promotion to the post of Training Officer and for further promotion. In violation of the said rules, third and fourth respondents were promoted in the vacant post of Training Officer, who were not in possession of Engineering / Technology certificates, but were diploma holders in non Engineering/Technology. Since respondents 3 and 4 also stand on the same footing as the petitioner, though he is senior to them, apprehending that there is a chance of them being promoted to the post of next level, i.e. Principal, the present petition has been filed.

3. Learned counsel appearing for the petitioner submitted that there is gross violation in promoting respondents 3 and 4 as Training Officers, as they are not in possession of the requisite qualification to hold the post. It is further submitted by the learned counsel for the petitioner that the above act of the official respondent would stand repeated by the respondents 3 and 4 being promoted to the post of Principal over and above the petitioner, even though the petitioner is senior to them. Apprehending such act by the respondents, it is prayed that this Court issues suitable direction to the first and second respondents with regard to adherence of qualification for promotion to the next higher post, viz., Principal.

4. The learned Special Government Pleader appearing for the respondents fairly concedes that though the petitioner is possessed of the requisite qualification, however, the qualification of the third and fourth respondents is not in Engineering / Technology branch. However, it is submitted by the learned Special Government Pleader that as such respondents 3 and 4 are not eligible for the next level of promotion to the post of Principal and an averment to that effect is also placed by the respondents in their counter, more especially para-7. It is therefore submitted that the same may be recorded and this writ petition may be closed.

5. Admittedly, it is not dispute that the third and fourth respondents are diploma graduates, but not in the field of Engineering / Technology. However, the prayer of the petitioner is only to the limited extent of the 3rd and 4th respondents be not promoted to the next higher post of

Principal. The materials on record clearly reveals that it is only an apprehension on the part of the petitioner and there is no proposal by the official respondents to promote respondents 3 or 4 to the next higher promotional post of Principal.

6. Further, the counter filed by the official respondents reveal that they are not going to promote respondents 3 and 4 to the next higher promotional post of Principal, as it is conceded by the respondents that they are not possessed of the said qualification. For better clarity, the relevant portion of the counter, especially para-7 is extracted hereunder :-

It is submitted that the amendment to rule is still pending. Even though it is not denied that the 3rd and 4th respondents are possessing the qualification of Diploma, the branch in which they have qualified does not fall in the category of Engineering / Technology. The Diploma in Costume Design and dress making are classified in the Non Engineering Technology Branch of Technical education. Even though the 3rd and 4th respondent's qualification of Diploma is not contested, they are not eligible for promotion as Principal, as the courses in which they have completed their Diploma is not classified in the category of Engineering / Technology.

7. In the aforesaid backdrop, there being no steps taken to fill up the post of Principal with respondents 3 and 4, the apprehension of the petitioner that they would stand promoted does not merit acceptance, as mere apprehension cannot be a ground for this Court to issue a positive direction to the respondents in the absence of their being a proposal. In such a scenario, the present petition is liable to be rejected.

8. Accordingly, this writ petition is writ petition stands dismissed. However, liberty is granted to the petitioner to agitate his rights in case of any infraction in the promotion to the post of Principal, in a manner known to law. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vsi2

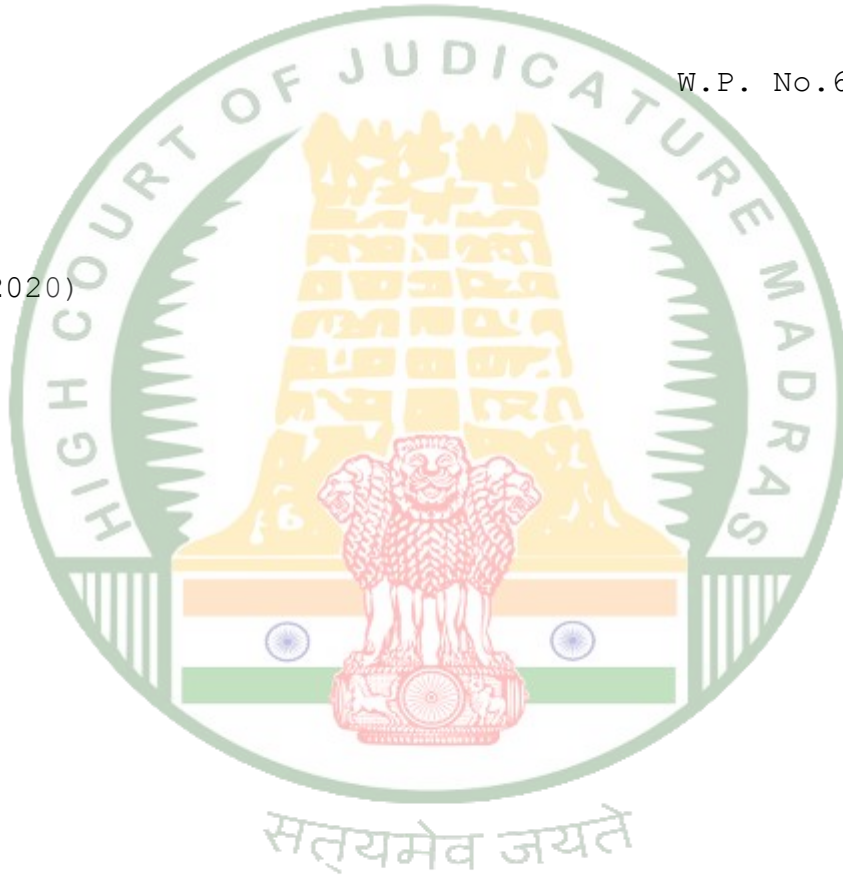
To

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