

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2020

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THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No. 6966 of 2015
and M.P. Nos. 1 & 2 of 2015

J.Nakkeeran

..Petitioner

Vs.

1. The Secretary to the Government,
School Education Department,
Fort. St.George, Chennai-9.

2. The Director of Elementary Education,
College Road, Nungambakkam, Chennai-6.

3. The District Elementary Educational Officer,
Thiruvapur, Thiruvapur District.

4.The Additional Assistant Elementary
Educational Officer,
Koradacherry Union,
Kodavasal Taluk,
Thiruvapur District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider the claim of the petitioner for promotion for promotion as an Elementary School Head Master based on the date of appointment in the Koradacherry Panchayat Union and promote the petitioner as an Elementary School Head Master and grant all consequential and monetary benefits on par with his juniors with effect from 01.01.2005 and grant him such other as this Hon'ble Court may deem fit and proper.

For Petitioner : M/s. V.Kasinathan Bharathi

For Respondents : Mrs.P.Kavitha,
Government Advocate

O R D E R

The prayer sought for in the Writ Petition is to direct the respondents to consider the claim of the petitioner for promotion for promotion as an Elementary School Head Master based on the date of appointment in the Koradacherry Panchayat Union and promote the petitioner as an Elementary School Head

Master and grant all consequential and monetary benefits on par with his juniors with effect from 01.01.2005.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the documents available on record.

3. The learned counsel for the petitioner submitted that the petitioner was appointed as Secondary Grade Teacher and joined on 08.10.1993 in Sri Saraswathy Aided Elementary School. Earlier the said School was a Government Aided School and subsequent to G.O. No. 589 dated 01.07.1992, the said school was taken over by the Government and converted as Government School. The learned counsel for the petitioner further submitted that the Subsequently his service was also approved as per proceedings of the DEEO in Oo.Mu.N. 513/05/A2 dated 19.10.2005. While preparing the panel for the post of Elementary School Head Master, the petitioner had sent his proforma to the respondent on 09.02.2005 with a request to include his name in the seniority list on par with the juniors by considering his year of appointment. But the petitioner's request was not considered and juniors namely Suresh and Everaa were appointed as Elementary School Head Master.

4. The learned counsel for the petitioner further submitted that the petitioner having 21 years of service, he is still working as Secondary Grade Teacher, but 40 Secondary Grade Teachers who are juniors to the petitioner were promoted as Elementary School Head Masters. His detailed representation dated 12.10.2013 submitted the respondents is also still pending. Hence, this Writ Petition.

5. The learned Government Advocate submitted that the petitioner was appointed as Secondary Grade Assistant on 07.10.1993 by the Deputy Inspector of Schools, Koradachery Union in a existing vacancy from a list obtained from the Employment Exchange, Nagapattinam after getting permission from the Chief Educational Officer, Nagapattinam. However his appointment was against the G.O.Ms. No.788/Edn Dt. 31.09.1991 which stipulates only women teachers should be appointed in primary schools from the academic year 1991-92 and so the appointment was not approved by the department. After the Hon'ble Supreme Court stayed the operation of this Government Order, the petitioner's appointment was temporarily approved on 15.04.1998 by the 3rd respondent. His absorption into Govt. Service is still under the consideration of the Department for want of certain particulars of the appointment of the petitioner. Only after absorption into Government Service, his service can be regularised and promotion can be given.

6. Today, the learned Government Advocate produced a letter dated 18.02.2020 addressed to the Government Pleader by the the Regional Education Officer -2, Kodarachery, wherein it has been stated that steps to absorb the services of J.Nakkiran/petitioner herein into Government Services are being taken and the same will be informed to the Director of the Elementary Education through the District Elementary Education Officer in due course.

7. The learned Government Advocate further submitted that the petitioner's proposal will be considered and final decision will be taken within a time limit as fixed by this Court.

8. The learned counsel for the petitioner submitted that the respondents shall take note of the G.O.Ms. No. 85/2008 dated 15.04.2008 issued by the School Education Department, while passing orders.

9. Considering the facts and circumstances of the case and submissions made by the learned counsels appearing for the parties concerned, this Court issues the following directions;

- (i). The Assistant Elementary Educational Officer, Koradachery Union/4th respondent herein shall re-submit the proposal to the District Elementary Education Officer, Thiruvavarur/ 3rd respondent herein, within a period of two weeks from the date of receipt of a copy of this order.
- (ii). On receipt of such proposal, the 3rd respondent shall forward the same to the Director of Elementary Education/ 2nd respondent. After taking necessary steps, the 2nd respondent shall forward the same to the Government.
- iii. The Government shall consider the proposal of the petitioner, in accordance with law, as expeditiously as possible, preferably within a period of four months, thereafter.

10. With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to the Government,
School Education Department,
Fort. St.George,
Chennai-9.

2. The Director of Elementary Education,
College Road,
Nungambakkam, Chennai-6.

3. The District Elementary Educational Officer,
Thiruvarur,
Thiruvarur District.

4.The Additional Assistant Elementary
Educational Officer,
Koradacherry Union,
Kodavasal Taluk,
Thiruvarur District.

+1 cc to M/s.Ln.V.Kasinatha Bharathi,Advocate Sr.No. 16111
+1 cc to The Government Pleader Sr.No. 16703

AKM/20.03.2020/4P- 5C /

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