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W.P. (MD) Nos.2222, 2223, 2225, 2227,
2230, 2234 and 2236 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.02.2020

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P. (MD) Nos.2222, 2223, 2225, 2227,
2230, 2234 and 2236 of 2020

and

W.M.P (MD) .Nos.1875, 1876, 1877, 1878, 1881, 1882,1883, 1884, 1885,
1886, 1887, 1888, 1889 and 1890 of 2019

Gandhi	... Petitioner in WP(MD) . 2222 of 2020
Valaguru	... Petitioner in WP(MD) . 2223 of 2020
Rengaraj	... Petitioner in WP(MD) . 2225 of 2020
Brindhadevi	... Petitioner in WP(MD) . 2227 of 2020
P.Bethanasamy	... Petitioner in WP(MD) . 2230 of 2020
M.Vanisree	... Petitioner in WP(MD) . 2234 of 2020
S.Sivakumar	... Petitioner in WP(MD) . 2236 of 2020

Vs.

- 1.The Government of Tamil Nadu,
rep., by its Secretary,
School Education Department,
Fort St.George, Chennai 600 009.
- 2.The Director of School Education,
DPI Campus, College Road, Chennai 600 006.
- 3.The Chief Educational Officer,
Theni, Theni District. ... Respondents in all WPs

Prayer in WP(MD) . 2222 of 2020:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To Call for the records of the 2nd respondent herein in his proceedings in Na.Ka.No.3720/W.1/E1/2019 dated 16.11.2019 and to quash the same in so far as the petitioner is concerned and to direct the 2nd respondent to fix the seniority of the petitioner Taking into account of his original date appointment of 12.07.2004 for the purpose of promotion to the post of Head masters and Headmistresses of Higher Secondary Schools under the control of the respondents.

<https://hcservices.ecourts.gov.in/hcservices/>



Prayer in WP(MD). 2223 of 2020:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To Call for the records of the 2nd respondent herein in his proceedings in Na.Ka.No.3720/W.1/E1/2019 dated 16.11.2019 and to quash the same in so far as the petitioner is concerned and to direct the 2nd respondent to fix the seniority of the petitioner Taking into account of his original date appointment of 09.07.2004 for the purpose of promotion to the post of Head masters and Headmistresses of Higher Secondary Schools under the control of the respondents

Prayer in WP(MD). 2225 of 2020:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To Call for the records of the 2nd respondent herein in his proceedings in Na.Ka.No.3720/W.1/E1/2019 dated 16.11.2019 and to quash the same in so far as the petitioner is concerned and to direct the 2nd respondent to fix the seniority of the petitioner Taking into account of his original date appointment of 09.07.2004 for the purpose of promotion to the post of Head masters and Headmistresses of Higher Secondary Schools under the control of the respondents

Prayer in WP(MD). 2227 of 2020:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To Call for the records of the 2nd respondent herein in his proceedings in Na.Ka.No.3720/W.1/E1/2019 dated 16.11.2019 and to quash the same in so far as the petitioner is concerned and to direct the 2nd respondent to fix the seniority of the petitioner Taking into account of his original date appointment of 25.06.2004 for the purpose of promotion to the post of Head masters and Headmistresses of Higher Secondary Schools under the control of the respondents

Prayer in WP(MD). 2230 of 2020:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To Call for the records of the 2nd respondent herein in his proceedings in Na.Ka.No.3720/W.1/E1/2019 dated 16.11.2019 and to quash the same in so far as the petitioner is concerned and to direct the 2nd respondent to fix the seniority of the petitioner Taking into account of his original date appointment of 13.07.2004 for the purpose of promotion to the post of Head masters and Headmistresses of Higher Secondary Schools under the control of the respondents



Prayer in WP(MD). 2234 of 2020:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To Call for the records of the 2nd respondent herein in his proceedings in Na.Ka.No.3720/W.1/E1/2019 dated 16.11.2019 and to quash the same in so far as the petitioner is concerned and to direct the 2nd respondent to fix the seniority of the petitioner Taking into account of his original date appointment of 03.08.2004 for the purpose of promotion to the post of Head masters and Headmistresses of Higher Secondary Schools under the control of the respondents

Prayer in WP(MD). 2236 of 2020:

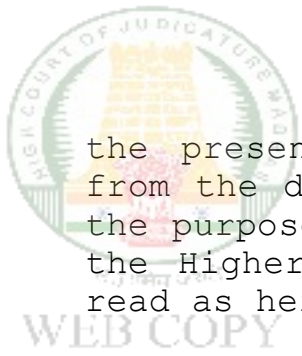
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To Call for the records of the 2nd respondent herein in his proceedings in Na.Ka.No.3720/W.1/E1/2019 dated 16.11.2019 and to quash the same in so far as the petitioner is concerned and to direct the 2nd respondent to fix the seniority of the petitioner Taking into account of his original date appointment of 02.03.2005 for the purpose of promotion to the post of Head masters and Headmistresses of Higher Secondary Schools under the control of the respondents

For Petitioner : Mr.G.Chandrasekar
For Respondents : Mr.A.Thiagarajan
Government Advocate

COMMON ORDER

The petitioners are working as P.G.Assistants under the Government Higher Secondary School. Originally they were recruited in the service as Junior P.G.Assistants in the year 2004 on consolidated basis. The petitioners names were placed below their juniors in the state wide seniority cum eligible list of P.G Teachers/High School Headmasters on the ground that the seniority was calculated from the date of confirmation and not from the date of appointment. Challenging the seniority list, the present writ petition has been filed.

2.The issue with regard to fixation of seniority, insofar as these petitioners herein are concerned for the post of Headmaster/Headmistress, came up before this Court in **W.P (MD) . No.1055 of 2020** in the case of **G.Bharathirajan Vs., The Government of Tamil Nadu, rep., by its Secretary, School Education Department, Fort St.George, Chennai and two others** and this Court by an order dated 21.01.2020, had held that the petitioners therein who are similarly placed like that of the petitioners in



the present case, are entitled to fixation of their seniority, from the date of their original appointment in the year 2004, for the purpose of promotion to the post of Headmaster/Headmistress in the Higher Secondary School. The relevant portion of the order read as hereunder:

'.....

3.The issue as to whether the petitioner's seniority could be taken from the date of his original appointment in the year 2004 for the purpose of promotion to the post of Headmaster/Headmistresses of the Higher Secondary School had already come up for consideration before this Court in W.P.(MD) No.21316 & 21317 of 2015, wherein, this Court had held that the services of the petitioners therein were entitled to be taken into account with effect from the date of their original appointments of Post Graduate Assistant. Following the said order, this Court in W.P.(MD) No.21467 & 24640 of 2019 on 09.12.2019 had also passed the similar orders. Relevant paragraphs of the order dated 09.12.2019 read as follows:

5. The learned Special Government Pleader appearing on behalf of the respondents would submit that all these petitioners are under consolidated pay and therefore, they cannot be equalled and kept in par with regular Post Graduate Assistants and as such, their non-inclusion in the panel does not suffer from any infirmity.

6. This Court is unable to accept the objections raised by the learned Special Government Pleader for the reason that, similarly placed Post Graduate Assistants had earlier approached this Court and after consideration of the objections of the Government, this Court had held that the petitioners therein were liable to be regularised and merely because the petitioners were not granted with the regular scale of pay with effect from the date of appointment, it cannot be said that their appointments were valid only from the date of regularisation and thereby, had held that the petitioners were eligible for promotion to the post of Head Masters. The relevant portion of the order reads as under:

"3.In these cases, it is not in dispute that the petitioners were appointed as Junior PG Assistant (History) and Junior PG



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Assistant (Tamil) respectively, with effect from 02.08.2004 and 27.01.2005 respectively. Though the said appointments were regularized by the first respondent with effect from 01.06.2006, based on G.O (Ms).No.99, School Education Department, dated 27.06.2006. The Government Order does not render the appointment invalid till it is regularized. Merely because the petitioners were not granted the regular scale of pay with effect from the date of appointment, it can not be said that their appointments were valid only from the date of regularization. The fact that the petitioners were appointed in sanctioned posts and that their appointment in the year 2004 and 2005 respectively, were following the Recruitment Rules are not in dispute. It is only due to financial constraints, instead of appointing them in regular time scale of pay, the Government made the appointment on consolidated pay. Since the appointments were made in the regular post, merely because the regular time scale of pay was denied to the petitioners for some time, there is no reason to hold that the appointments made earlier on adhoc basis would disable them to claim seniority from the date of entry into service.

.....

8. Accordingly, these Writ Petitions are allowed and the impugned orders passed by the second respondent dated 17.04.2015 and the consequential proceedings of the first respondent dated 20.05.2015 are quashed. The respondents 1 and 2 are directed to treat the petitioners as eligible for promotion to the post of Headmasters/ Headmistresses of the Higher Secondary Schools, as per Rule. This order shall not disturb the rights of any other third party whose rights have already been crystalised. However, for the purpose of calculating seniority and for granting any other monetary benefits, the respondents are directed to treat the services of the petitioners from the date of their original appointment. Consequently, connected Miscellaneous Petitions are closed. No costs."



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7. In view of the consideration of this Court in identical cases as that of the petitioners herein, I am unable to give any credence to the objections raised by the learned Special Government Pleader. In the light of the above observations made therein and following the decision taken in the aforesaid Writ Petitions, the petitioners herein would be entitled to succeed.

8. Consequently, the prayer sought for by the petitioner in W.P.(MD) Nos.21467 of 2019 seeking for a direction to the respondents to regularise the service of the petitioners with effect from the date of their initial appointments and to pay the monetary benefits arising thereof and consequently directing the respondents to provide seniority and include petitioners in the panel of Post Graduate Assistant Teachers to be promoted to the post of Headmaster/ Headmistress of Government Higher Secondary School by taking into account the date of initial appointment stands allowed.

9.The prayer sought for by the petitioners in W.P.(MD) No.24640 of 2019 seeking to call for the records relating to the impugned panel list issued by the 2nd respondent vide Na.Ka.No.3720/W.1/E1/2019 dated 16.11.2019 and quash the same, stands allowed. Consequently the respondents are directed to regularise the service of the petitioner with effect from 25.06.2004 and include him in the panel of Post Graduate Assistant Teachers to be promoted to the post of Headmaster/Headmistress of Government Higher Secondary School stands allowed.

4.The aforesaid extract is self explanatory. In view of the stand taken by this Court, confirming that the petitioners therein are entitled for promotion to the post of Headmaster/Headmistresses, by taking into account their original date of appointments, this Court is not in a position to take any contrary view. Following the said decision, the petitioners herein will also be entitled to succeed.



5. In the light of the above observations, the impugned order dated 16.11.2019 passed by the second respondent in Na.Ka.No.3720/W.1/E1/2019 is hereby quashed. Consequently, the second respondent is directed to fix the seniority of the petitioner by taking into account of his original date of appointment in the year 2004 for the purpose of promotion to the post of Headmaster/Headmistresses in the Higher Secondary Schools. Such an exercise shall be completed atleast within a period of six weeks from the date of receipt of a copy of this order. '

3. It is brought to the notice of this Court that a subsequent clarification passed in W.A.No.3904 of 2019 dated 13.01.2020, the Hon'ble Division Bench of this Court had held that the Teachers like that of the petitioners herein would be entitled for fixation of seniority from the date of their appointment and insofar as the monetary benefits are concerned, they would be entitled only from the date of the regularization. The petitioners therefore, would be entitled to succeed in these present writ petitions, since they are aggrieved against the action of the respondents in taking the date of confirmation alone for the purpose of fixation of their seniority.

4. Accordingly, the impugned seniority list in Na.Ka.No.3720/W.1/E1/32019 dated 16.11.2019 stands quashed, insofar as these petitioners herein are concerned. Consequently, the second respondent herein is called upon to refix the seniority of the petitioners herein, by taking into account of their original date of appointment made in the year 2004 for the promotion panel to the post of Headmaster/Headmistress in the Higher Secondary School. Such an exercise shall be completed atleast within a period of six weeks from the date of receipt of a copy of this order.

5. With the above observations, these Writ Petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar (CS)



W.P. (MD) Nos.2222, 2223, 2225, 2227,
2230, 2234 and 2236 of 2020

1.The Secretary,
Government of Tamil Nadu,
School Education Department,
Fort St.George, Chennai 600 009.

2.The Director of School Education,
DPI Campus,
College Road, Chennai 600 006.

3.The Chief Educational Officer,
Theni, Theni District.

+6CC TO MR.G.CHANDRASEKAR, Advocate Sr. No. 6818 to 6822 &
6824

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 6772

W.P. (MD) Nos.2222, 2223, 2225, 2227,
2230, 2234 and 2236 of 2020
17.02.2020

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