



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.3175 of 2014

and

M.P. (MD) No.1 of 2014

WEB COPY

R.Jayaraman

... Petitioner

-Vs-

1. The Director of Elementary Education,
College Road, Chennai-6.
 2. The District Elementary Educational Officer,
Trichy, Trichy District.
 3. The Assistant Elementary Educational Officer,
Musiri Union, Trichy District.
- ... Respondent

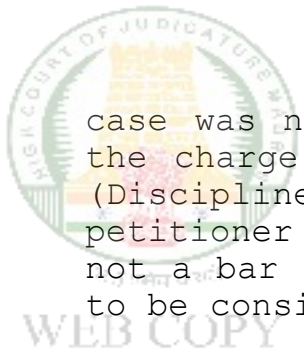
Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to appoint the petitioner as B.T. Assistant (Maths) by promotion, as per the panel dated 17.05.2013 by creating B.T. Assistant post in any of the Non SSA Middle Schools at Musiri Union in terms of Right of Children to Free and Compulsory Education Act 2009, within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkateshkumar
for M/s.Ajmal Associates
For Respondents : Mrs.S.Srimathy
Special Government Pleader

ORDER

The relief sought for in the present writ petition is for a direction to the direct the respondents to appoint the petitioner as B.T. Assistant (Maths) by promotion, as per the panel dated 17.05.2013, by creating B.T. Assistant post in any of the Non SSA Middle Schools at Musiri Union.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner was appointed as a Secondary Grade Teacher at Malugapatty Panchayat Union Primary School in Marungapuri Panchayat Union, Trichy District and joined duty on 20.08.2001. Thereafter, the petitioner was transferred from Marungapuri Union to Musiri Union on 06.07.2007. The writ petitioner states that he is fully qualified for appointment by way of promotion to the post of B.T. Assistant (Maths). However, his



case was not considered on account of the fact that he was facing the charge memo under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The learned counsel appearing for the petitioner made a submission that pendency of 17(a) charge memo is not a bar for promotion. Thus, the case of the writ petitioner is to be considered.

3.The learned Special Government Pleader appearing on behalf of the respondents opposed the contention by stating that the writ petitioner has not reached his seniority and above him one more senior is waiting for the post of B.T. Assistant (Maths). Promotion cannot be granted by creating the post of B.T. Assistant (Maths), whenever the post became vacant, all the eligible candidates will be considered in accordance with the seniority as per the procedures contemplated under the rules.

4.This Court is of the considered opinion that the promotion *per se* cannot be claimed as a matter of right, so also the appointment. All promotions are to be made strictly in accordance with the rules in force. Consideration for promotion is right of an employee. In the present case, the learned Special Government Pleader states that one more senior is waiting for promotion to the post of B.T. Assistant (Maths) and the case of the writ petitioner will be considered in accordance with rules and seniority, whenever his turn comes.

5.The relief as such sought for to direct the respondents to promote the writ petitioner cannot be granted. Promotion being subject to the eligibility and vacancy position, the Court cannot issue any such direction. Such a direction can be issued only if the aggrieved persons establish any illegality in grant of promotion. This being the principles to be followed, the case of the writ petitioner is to be considered in accordance with the rules in force and by following the rule of seniority and other eligibility criteria. As such, the relief of direction sought for cannot be granted.

6.Thus, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj



To

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

2.The District Elementary Educational Officer,
Trichy,
Trichy District.

3.The Assistant Elementary Educational Officer,
Musiri Union,
Trichy District.

+1 CC to the SPL GP (SR-19512[F] dated 08/10/2020)

W.P. (MD) .No.3175 of 2014
and
M.P. (MD) No.1 of 2014
06.10.2020

NS (CO)
CS (19.10.2020) 3P 5C