



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.10241 OF 2012

AND

M.P.NO.2 OF 2012

M.Alamelu, M.A., M.A., B.Ed.,
B.T. Assistant (Tamil)
Sri Ekambapuram Aided Middle School
Kancheepuram.

...Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep by its Secretary,
Education Department,
Chennai.
2. The Director of Elementary Education,
College Road,
Chennai - 600 006.
3. The Joint Director of Elementary Education,
Directorate of Elementary Education
College Road,
Chennai - 600 006.
4. District Elementary Educational Officer,
Kancheepuram, Kancheepuram District.
5. The Secretary,
Sri Ekambarapuram Aided Middle School,
Kancheepuram - 631 502.
6. Ms.Rajeshwari,
Headmistress,
Sri Ekambarapuram Aided Middle School,
Kancheepuram.

...Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the proceedings Na.Ka.No.29555/L3/2010 dated 07.04.2011 passed by the 3rd respondent - Joint Director of Elementary Education,



Chennai and quash the same and further direct the 5th respondent - Secretary, Sri Ekambarapuram Aided Middle School, Kanchipuram, to promote the petitioner as the Headmistress of the School w.e.f. 01.06.2009 which the petitioner is legally entitled to.

WEB COPY

For Petitioner : Mr.S.Giridharan

For Respondents : Mr.C.Selvaraj
***1 to 4** Government Advocate
(Civil Side)

For Respondent ***5** : Mr.P.Ganesan
For M/s.C.S.Associates

***For Respondent - 6 : No Appearance**

O R D E R

Challenging the order of promotion given to the sixth respondent as Headmistress of the fifth respondent School, the petitioner is before this Court.

2. According to the petitioner, she was appointed as a Secondary Grade Assistant on 25.01.1988 in the fifth respondent school. She passed B.Lit., in the year 1990; B.Ed., in 1992; M.A. (Tamil) in 1996; and M.A. (History) in 2002 and thus, she is fully eligible to hold the post of Headmistress.

3. As per G.O.Ms.No.400, Education, Science and Technology Department, dated 25.05.1995, when a permanent vacancy arises in the post of Middle School Headmaster, such vacancy shall be filled up by senior most among persons working as Secondary Grade Teachers in the school. If no such senior most Secondary Grade Teacher is in service, on the date on which the vacancy arises, is available, it can be filled up by appointing B.Ed., Teacher/Tamil Pandit either by direct recruitment or by transfer. While so, the petitioner, who is fully eligible to be appointed from the year 1992 was very much available in the school, the fifth respondent selected and appointed the sixth respondent as Headmistress of the school. Aggrieved over the same, the petitioner is before this Court challenging the appointment of the sixth respondent as Headmistress and sought for a direction to promote her as Headmistress.

4. According to the learned Government Advocate appearing for the respondents ***1 to 4**, for promotion to the post of Middle School Headmaster, a Panel was drawn on the basis of the seniority of the qualified B.Ed., Teachers. However, the



petitioner's name was not found in the Panel. The sixth respondent was appointed on 30.09.2004 as B.T. Assistant (Science) in accordance with the seniority and roster. This is the feeder category for promotion to the post of Middle School Headmaster. The seniority of the Teachers in the fifth respondent school, reads as follows:

Name	Post - Date of appointment	Subject Turn
Tmt V.Rajeswari	B.T.Assistant - 30.09.2004	Science
Tmt A.Bharathi	B.T.Assistant - 27.01.2006	Maths
Tmt Sooryakala	B.T.Assistant - 14.02.2008	Science

5. In G.O.Ms.No.400, Education Science and Technology Department, dated 25.05.1995, directions were issued to fill up the post of Middle School Headmaster by senior most among persons working as Secondary Grade Teachers in other cadres of trained Teachers, but qualified for B.Ed./Tamil Pandit. Since promotion shall be given to the senior most B.Ed., Teacher, the sixth respondent was given promotion. Therefore, the petitioner who was not at all in the zone of consideration cannot be promoted.

6. I have considered the submissions.

7. Admittedly, the petitioner is fully qualified to become a Graduate Assistant on completion of B.Ed., in 1992. As per G.O.Ms.No.400, the senior most Secondary Grade Teacher, if qualified for B.Ed./Tamil Pandit, shall be appointed in the permanent vacancy arises. But due to the introduction of the V Pay Commission, the Pay of Middle School Headmaster was fixed in the scale of pay of Rs.1640-2900; and Tamil Pandit/B.T. Assistant was fixed in the scale of pay of Rs.1400-2600/-. But the Secondary Grade Assistant was fixed in the scale of pay of Rs.1200 - 2040. Prior to V Pay Commission, the scales of pay of the Secondary Grade Assistants/B.T. Assistants were one and the same. Due to the pay revision by the V Pay Commission, the Secondary Grade Teacher has become a feeder category to the post of B.T. Assistant. In that view of the matter, the import of the G.O., lost its force. The category of B.T. Assistant and Secondary Grade Assistant are not equal. Separate seniority has to be prepared for B.T. Assistant and Secondary Grade Teacher. Thus, the Secondary Grade Assistant need to be promoted to the post of Graduate Assistant and they only he/she can be considered for promotion to the post of Headmaster.



8. Admittedly, the petitioner was promoted as Graduate Teacher only on 28.11.2011 and on the date of selection to the post of Headmistress, the petitioner was not a Graduate Teacher and thus not within the zone of consideration. Therefore, the request of the petitioner to promote her as Headmistress applying obsolete G.O.Ms.No.373, Education, dated 31.03.1989 cannot be accepted.

9. Admittedly, the petitioner was only a Secondary Grade Teacher on the date of selection to the post of Headmistress and she is not entitled to be promoted bypassing the sixth respondent, who is the senior most person. Apart from the above, as per the roster, the turn was earmarked for Graduate Assistant (Science) and therefore also, the petitioner cannot be promoted. Therefore, the request of the petitioner is not sustainable and the writ petition is liable to be dismissed and accordingly, is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)
27/09/2021

*** Corrected as per Order of this
Court dated 28/09/2021 made in
W.P.No.10241 of 2012**

Sd/-
Assistant Registrar(CO)
04.10.2021

//True Copy//

Sub Assistant Registrar

TK

To

1. The Secretary,
Government of Tamil Nadu,
Education Department,
Chennai.
2. The Director of Elementary Education,
College Road,
Chennai - 600 006.

*** To be Substituted to
the Order already
dispatched on
27/09/2021**



3. The Joint Director of Elementary Education,
Directorate of Elementary Education,
College Road,
Chennai - 600 006.

4. District Elementary Educational Officer,
Kancheepuram,
Kancheepuram District.

5. The Secretary,
Sri Ekambarapuram Aided Middle School,
Kancheepuram - 631 502.

+2ccs to M/s.C.S.Associates, Advocate, S.R.No.* **50174**
+1cc to the Government Pleader, S.R.No.43023

W.P.NO.10241 OF 2012

PMK(CO)
RGA(27/09/2021)
PBS/04/10/2021