

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2021

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2715 of 2021 and
WMP No.3047 of 2021

S.Athiyaman

... Petitioner

-vs-

1. The State of Tamil Nadu,
Rep by its Secretary to Government,
Adi Diravidar and Tribal Welfare Department,
Secretariat, Chennai.
2. The Commissioner / Director,
Adi-Dravidar Welfare Department,
Chepauk, Chennai -5.
3. The District Adi-Dravidar & Schedule Tribes
Welfare Officer,
Perambalur District, Perambalur. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to promote the petitioners as Physical education Director Grade - I on the basis of the final panel list issued by the 2nd respondent vide his proceedings ந.க.எண்.G2/20129/2020, dated 12.11.2020 within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohamed Imran

For Respondents : Mr.P.V.Selvakumar,
Additional Government Pleader

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O R D E R

The petitioner seeks a direction to the respondents to promote the petitioner as Physical education Director Grade - I on the basis of the final panel list issued by the 2nd respondent vide his proceedings ந.க.எண்.G2/20129/2020, dated 12.11.2020 within the period that may be stipulated by this Court.

2. The learned counsel for the petitioner would submit that the petitioner who is qualified in B.P.E.S., B.P.Ed and M.P.Ed., appointed as Physical Education Teacher on 15.12.2000

and regularized with effect from 15.12.2000. The petitioner is eligible for promotion to the post of Physical Education Director Grade - I for the year 2015 - 2016. In the tentative panel for promotion dated 12.11.2020, the name of the petitioner was placed at S.No.7. It is submitted that the promotion is granted upto S.No.6, whereas the name of the petitioner in S.No.7 has not been considered for promotion. He would submit that he made representations on several occasions. But the representation has not yield any fruit. Hence the petitioner has approached this Court.

3. Mr.P.V.Selvakumar, learned Additional Government Pleader appearing for the respondents would submit that the petitioner is not entitled to promotion merely because, the name of the petitioner has not been included in the panel which is only for the period of one year. Unless there is a suitable vacancy based on the seniority, his name would not be considered. As there are no vacancies, the name of the petitioner was not considered and the petitioner has not established that he is within the zone of consideration.

4. In reply, Mr.H.Mohamed Imran, learned counsel for the petitioner would submit that there is no reason given by the respondents for depriving promotion from serial No.7. Further it is stated that in order to accommodate the known person, the petitioner has been deprived of promotion by the respondents.

5. In response, the learned Additional Government Pleader would submit that, the petitioner has not given any evidence to show that some other person has been recommended for promotion in his place. However, the respondents have no objection to consider the case of the petitioner in accordance with law.

6. In view of the submissions made by the learned counsel appearing on either side, this Court directs the respondents to consider the representation of the petitioner dated 12.01.2021, by taking note of the suitability, eligibility, merit, seniority and number of vacancies, and take decision in accordance with law within a period of two months from the date of receipt of a copy of this order.

7. It is made clear that the above version of fact is only for the disposal of the writ petition, and it will have no bar when the decision on merits is taken by the respondents with regard to the case of the petitioner.

8. The petitioner shall furnish his phone number, email ID, if any, etc., along with a copy of the representation dated 12.01.2021 and this order, to the respondents forthwith. The respondents are directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of

SMS/Email/registered post/speed post, so that there is no need for the parties to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the parties, they will have to face the civil imprisonment in case of contempt proceedings and, if they are unable to serve the order and the cover being returned unserved for one reason or the other, the same shall be kept in the file without opening it for the proof of attempt of delivery, so that the parties, at a later point of time, will not take a plea that he is not aware of the order.

9. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To:

1. The Secretary to Government,
State of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai.
2. The Commissioner / Director,
Adi-Dravidar Welfare Department,
Chepauk, Chennai -5.
3. The District Adi-Dravidar & Schedule Tribes
Welfare Officer,
Perambalur District, Perambalur.
Perambalur District, Perambalur.

+1cc to the Government Pleader SR.7347

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WMP No.3047 of 2021

NMI (CO)
CB(12/03/2021)