

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 18.03.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.19537 of 2012 and
M.P.No.1 of 2012

R.Ravichandran

... Petitioner

Vs.

1.The Joint Director of School Education,
Joint Directorate of School Education,
College Road, Chennai-6.

2.The Chief Educational Officer,
Office of Chief Education,
Nagapattinam.

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to include the petitioner's name in the promotion final list to be published on 30.07.2012.

For Petitioner : Mr.R.Kannan

For Respondents : Mr.S.Suresh Kumar
Government Advocate

ORDER

The prayer sought for herein is for a writ of mandamus directing the first respondent to include the petitioner's name in the promotion final list to be published on 30.07.2012.

2.The petitioner was working as Physical Education Teacher at Government Higher Secondary School at Manalmedu. Previously, he has served in the Military and with the qualification of PUC and other qualification, he become eligible to be considered for the post of B.T. Assistant and accordingly, during the year 2010-2011 his name was included in the list fit for promotion to the post of B.T. Assistant at Serial No.48. However, in the final list, the petitioner name has been removed, thereafter, in the year 2011-2012 also, based on the qualification and seniority of the petitioner, his name was recommended for inclusion for the promotion to the post of B.T. Assistant through the Headmaster concerned, where the petitioner was working and subsequently also, his name was not considered in

the list for the year 2011-2012 prepared and released on 01.01.2012 and in this regard, though the petitioner already gave a representation on 05.05.2012, the same also was not considered. Therefore, the petitioner was constrained to file this writ petition with the aforesaid prayer.

3. When the case is taken up for final hearing, the learned counsel appearing for the petitioner would submit that, though subsequently during the pendency of the writ petition the petitioner has retired from service in the year 2013, certainly in the year 2011-2012 he is eligible to the post of B.T. Assistant and therefore, if at all the respondents decide that the petitioner would be eligible to be considered for promotion during the relevant point of time i.e., in 2011-2012, the needful can be directed to be done and ultimately if the petitioner's candidature is accepted for promotion to the post of B.T. Assistant and grant notional benefits, such notional benefits may be conferred on him, accordingly pension benefits can be revised.

4. I have heard Mr. S. Suresh Kumar, learned Government Advocate appearing for the respondents, who would submit that, though the petitioner claimed that he may be considered for the promotion to the post of B.T. Assistant for the year 2011-2012, for want of qualification or otherwise, as well as seniority, his name was not considered and therefore, the petitioner not as a matter of right can claim for promotion to the post of B.T. Assistant, merely he was having the qualification unless and until he become eligible for consideration based on the inter-se seniority in the feeder category.

5. In that view of the matter, the learned Government Advocate would submit that, what has been asked by the petitioner, though was not considered so far, cannot be granted, however, since the petitioner still insists the representation dated 05.05.2012 shall be considered on merits and orders to be passed, definitely the said representation would be considered and an order on merits would be passed by the respondents within a time frame that may be stipulated by this Court.

6. Considering the said submission made by the learned counsel appearing for the parties and by taking into account the innocuous prayer now sought for by the petitioner, as projected by the learned counsel appearing for the petitioner, this Court is inclined to dispose of this writ petition with the following orders.

(i) That the respondents, especially the second respondent is hereby directed to consider the representation given by the petitioner dated 05.05.2012 with regard to his grievance for inclusion in the panel

fit for promotion to the post of B.T. Assistant which was released on 30.07.2012 for the year 2011-2012 and accordingly consider the same on merits and in accordance with law and pass orders thereon within a period of twelve weeks from the date of receipt of a copy of this order.

(ii) It is needless to mention that if the respondents come to the conclusion that the plea of the petitioner can be accepted and notional benefits can be conferred on him, the pensionable benefits for which if he is entitled, the same can be revised and paid to him with arrears. The needful, as indicated above, shall be undertaken by the respondents within the time mentioned herein above.

7. Accordingly, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Sgl

To

1. The Joint Director of School Education,
Joint Directorate of School Education,
College Road, Chennai-6.

2. The Chief Educational Officer,
Office of Chief Education,
Nagapattinam.

+1 CC to Mr.R. Kannan, Advocate sr 17793.

+1 Cc to The Government Pleader sr 17991.

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GPL(CO)
SP(12/07/2021)