



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 8464 of 2009

and

M.P.Nos. 1 to 3 of 2009

R.Muthukrishnan

..Petitioner

Vs

- 1.The Secretary,
Department of School Education,
Fort St.George, Chennai-600009.
- 2.The Director of Elementary Education ,
College Road, Chennai -600006.
- 3.The District Elementary Educational Officer,
Nagapattinam-611001
4. The Assistant Elementary Educational Officer,
Nagapattinam -611001
5. The Additional Assistant Elementary Educational Officer,
Nagapattinam - 611001.
6. N.Venkataraman
7. V.Nagappan
8. P.Gurumoorthy
9. S.Vinmathy

..Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India for writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the 5th respondent Additional Assistant Elementary Educational Officer vide proceedings Na.Ka.No.5327/A3/09 dt.3.3.2009 and the subsequent order issued by the 3rd respondent DEEO vide Na.Ka.No.182/A2/09 dt.17.3.2009 quash the same and to further direct the respondents herein to place the petitioner above his juniors including Venkatraman V.Nagappan P.Gurumurthy S.Vinmathy in the Panel for promotion to the post of Middle school Head masters for the year 2009-2010 and for further years.



WEB COPY

For Petitioner : Ms.H.Mary Sowmi Rexi
for Godson Swaminath

For Respondents : Mr.T.Arun Kumar, AGP - R1 to R5
No Appearance - R6 to R9

O R D E R

The prayer in the writ petition is to call for the records relating to the impugned order issued by the 5th respondent Additional Assistant Elementary Educational Officer vide proceedings Na.Ka.No.5327/A3/09 dt.3.3.2009 and the subsequent order issued by the 3rd respondent DEEO vide Na.Ka.No.182/A2/09 dt.17.3.2009 quash the same and to further direct the respondents herein to place the petitioner above his juniors including Venkatraman V.Nagappan P.Gurumurthy S.Vinmathy in the Panel for promotion to the post of Middle school Head masters for the year 2009-2010 and for further years.

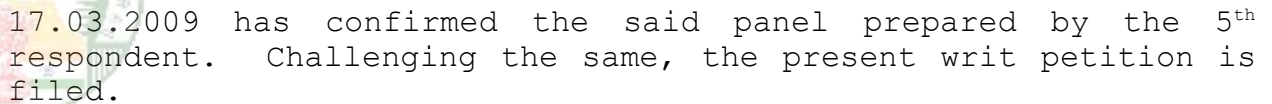
2. The learned counsel for the petitioner has submitted that the writ petitioner was appointed as Secondary Grade Teacher in Panchayat Union Elementary School in Nagalur, Keevalur Union, Nagapattinam District in the year 1990. The Government has passed an order in G.O.Ms, No. 100-School Education Department dated 27.06.2003, wherein appointment to various types teaching posts directed to remain as Junior Grade appointments for a period of five years from the respective dates of appointment and the teachers would be be paid only consolidated pay during the said period and after a period of five years, they would be absorbed on regular scale of pay subject to their merit, ability and seniority. Subsequently, the writ petitioner acquired B.Ed degree during July 2004 and became fully qualified for the post of BT Assistant.

3. The learned counsel for the petitioner has further submitted that the Government has passer an order in G.O. Ms. No. 99, dated 27.06.2006, withdrawing the scheme of appointment of junior grade teachers w.e.f 01.06.2006 and the earlier system of regular time scale of pay was restored. Based on the said G.O., Junior Grade BT Teachers were placed on regular time scale of pay. The writ petitioner has made a representation to the 2nd respondent stating that he had already acquired the qualification for the post of BT Assistant as early as on July 2004 i.e the date on which he acquired B.Ed degree and requested the respondent to promote him as BT Assistant (Maths) w.e.f 01.06.2006. The petitioner was transferred to Panchayat Union



Middle School. Sembianmadevi, Nagapattinam District on 23.07.2006. In the meantime G.O.Ms No. 174 , dated 15.09.2006 came to be issued by the Government, approving posts of 155 graduate teachers,, 151 graduate teachers (Mathematics) and 194 graduate teachers (Science) aggravated together and deemed as 500 posts of graduate teachers (Social Science) and they shall be filled up with persons having B.A (History) and B.Sc (Geography) + B.Ed degree. It is also stated in the said G.O that 50% of the another set of 2690 posts of graduate teachers should be filled up with teachers possessing graduate degrees in English, Science and Mathematics with B.Ed degree in English, Science or Mathematics with B.Ed degree by way of promotion on seniority basis from the academic year 2006-2007.

4. The learned counsel for the petitioner has further submitted that on 23.11.2006, the petitioner got promoted as Elementary School Headmaster and posted at Panchayat Union Elementary School, Kadambaravazhkkai, Nagapatinam Union. Subsequently on 27.11.2006, the petitioner promoted as BT Assistant and posted at Panchayat Union Middle School, Vergudi, Nagapattinam District. According to the petitioner, the next promotional avenue for BT Assistants is Middle School Headmaster. For this a panel was drawn from eligible BT Assistants. The 5th respondent had prepared a panel for the year 2007 and circulated the same to the candidates before finalisation. In the said panel, the petitioner was placed below the Junior Grade BT Assistant, who have not completed their probation. Hence the petitioner has made a representation on 14.02.2007 to the 2nd respondent. Accordingly, in the year 2008, the 5th respondent prepared a fresh panel to the post of Middle School Headmaster, placing the petitioner above the junior grade BT Assistants. In the year 2008, as per the instructions given by the 2nd respondent/Director, the DEEOs have prepared the seniority list of Panchayat Union Teachers and also the panel for panel for promotion to the post of Middle School Headmasters for the year 2009-2010 and circulated the same to the candidates before finalisation. In the said panel, the petitioner was placed below four of his juniors/respondents 6 to 9 herein namely 1.N.Venkatraman, 2. V.Nagappan, 3. P.Gurumurthy and 4.S.Vinmathy whose appointments were made on 01.07.2004, 13.09.2005, 06.03.2006 and 10.01.1990 respectively. The services of the said four juniors were regularised w.e.f 01.06.2006. The petitioner made a representation to the 5th respondent on 02.03.2009, raising objections regarding his name being placed below the candidates who are more than fifteen years junior in service. The 5th respondent has prepared a panel as on 03.03.2009, placing the petitioner below the juniors who were junior grade teachers namely N.Venkataraman, V.Nagappan, and P.Gurumurthy. The 3rd respondent in his proceedings dated



5. The Counter Affidavit has been filed by the 3rd respondent. The learned Additional Government Pleader in support of the statement made in the counter affidavit, has submitted that the petitioner has already qualified for the post of B.T Assistant as on July 2004 and he made a representation to the 2nd respondent to consider him for the promotion to the post of B.T. Assistant. Subsequently, the petitioner's service was regularised w.e.f 27.11.2006 as per the rules and guidelines issued by the Director of Elementary Education as B.T Assistant. Whereas the respondents 6 to 8 who possessed the qualification of B.T Assistant were appointed as Junior Grade Teachers with consolidated pay. Subsequently, as per G.O.99, dated 27.06.2006, the aforesaid Junior Grade BT Teachers were placed on regular time scale of pay w.e.f 01.06.2006.

6. The writ petitioner got promoted as B.T Assistant (Maths) on the basis of seniority and date of joining duty at Panchayat Union Middle School, Verkudi, Nagapattinam on 27.11.2006. The panel was prepared by the 4th respondent by considering the date of regularisation of service in the B.T Assistant post, therefore the contention of the petitioner that the date of joining as Secondary Grade Teacher and the total service is not the criteria for taking seniority to the post of Middle School Headmaster in the year 2006 is not correct. Since the newly recruited B.T Assistants have not completed the probation period, the name of the petitioner was placed above the directly recruited B.T Assistants in the said panel.

7. It is further submitted by the learned Additional Government Pleader that the aforesaid graduate teachers were brought into the regular time scale of pay w.e.f 01.06.2006 and they have completed the probation period on 31.05.2009 and the panel was prepared on 01.01.2009 with the persons who have completed their probation on or before that date. In that panel the petitioner's name has been placed according to the date of regularisation in the present post (i.e B.T. Assistant). Accordingly, the candidates who have completed their probation in that present post were placed above the petitioner as per rules and regulations. Hence the contentions of the learned counsel for the petitioner is unsustainable and liable to be rejected.

8. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for



9. On perusal of records, the writ petitioner was appointed as Secondary Grade Teacher on 06.01.1990 and promoted as Elementary School Headmaster on 23.11.2006 and posted at Panchayat Union Elementary School, Kadambaravazhkkai, Nagapattinam. Subsequently, the petitioner was promoted BT Assistant on 27.11.2006 and posted at Panchayat Union Middle School, Vergudi, Nagappatinam. The respondents 6 to 8 were appointed as Junior Grade Teachers in the year 2004 on consolidated pay, as per G.O.Ms. No. 99 dated 27.06.2006 the scheme of appointment of junior grade teacher on consolidated pay was withdrawn and they were recognised as Higher Grade Teachers on regular time scale of pay w.e.f. 01.06.2006. The date of regularisation of service of the petitioner and the respondents 6 to 8 is not disputed by the parties.

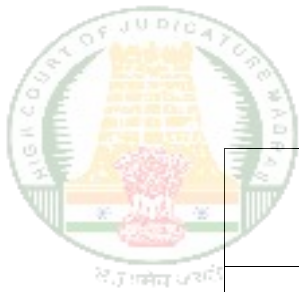
11. The primordial contention of the petitioner is that the writ petitioner was originally appointed in the year 1990 as a Secondary Grade Teacher and he continued his service and thereafter acquired B.Ed qualification and he was promoted as Headmaster elementary school and promoted as B.T Assistant, therefore the respondents ought to have consider the date of joining of the petitioner as secondary grade teacher for promotion to the post of Middle school Headmaster by placing the petitioner in the seniority list above the respondents 6 to 9, without taking aforesaid length of service rendered by the petitioner, the respondent has placed the respondents 6 to 9 above the petitioner in the promotion panel.

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



2. Appointments - Appointments to the various classes and categories shall be made as follows;

Class	Category	Method of Appointment
Class - I	Category -I Headmaster/Headmistress of Middle Schools (B.Ed Grade)	(i). Promotion from Class II of the Service; or Class III of the service. (ii). Transfer from Category 2 Language Pandit Grade-I of Class I of the said service provided that if no B.Ed., or Language Pandit Grade I Teacher is available for appointment to the category within the unit, such vacancy shall be filled by B.Ed., Teacher or Language Pandits Grade-I by transfer from other units. (iii) When no qualified and suitable candidate is available by any of the methods specified in item (i) and (ii) above, by direct recruitment.



WEB COPY

Class	Category	Method of Appointment
	Category 2 Language Pandits Grade I (Tamil) and Language Pandit Grade-I (other than Tamil)	(i) By promotion from Headmasters/Headmist resses of Class II or Class III of the Service. (ii) By transfer of qualified personnel from any other unit; (iii) By Direct recruitment. Provided that for appointment to substantive vacancies in the posts of Language Pandits 1/3 shall be filled by direct recruitment and 2/3 by promotion.
Class - II	Category I Headmasters/Headmistr esses of Middle Schools (Secondary Grade)	By promotion from Class III of the service.
Class - III	Category I. Headmaster/Headmistre sses of Primary Schools.	By transfer from category 2
	Category 2 Secondary Grade Teachers	(i) By direct recruitment; or (ii) By promotion from any post in the service on a lower scale of pay. Provided that fifty percent of the substantive vacancies arising in the category shall be filled by direct recruitment.



13. The services of the respondents 6 to 8 were regularised on 01.06.2006, the panel was prepared by the respondent in the year 2009. Therefore, on the date of preparing the panel by the 5th respondent, the respondents 6 to 8 had completed their probation period, therefore they are fully qualified to include their name in the panel list drawn by the 5th respondent for promotion to the post of Headmaster Middle School. As per the aforesaid Special Rules, the date of regularisation of service as B.T Assistant should be considered to preparing panel for promotion to the post of Headmaster Middle School. Therefore, placing the respondents 6 to 8 above the petitioner in the panel list is proper, in view of the aforesaid Special Rules.

14. As far as the other contention of the petitioner that the 9th respondent was junior to the petitioner at the time of appointment, it is seen from the records, the 9th respondent was promoted as Headmaster Elementary School on 18.09.2006 whereas the petitioner was promoted as Headmaster Elementary School on 23.11.2006. The aforesaid promotion to the 9th respondent was not disputed by the petitioner at the relevant point of time. Further, the aforesaid Special Rules clearly shows that the 9th respondent was promoted under Class III Category of Rules and the petitioner's inclusion in the panel comes under Class I - Category I - feeder category I & 2 of the aforesaid Special Rules. This Court finds no force on the contention of the learned counsel for the petitioner claiming the right to place the petitioner above the respondents 6 to 9 herein in the panel by considering the petitioner's service from the date of joining in service.

15. Therefore, on careful perusal of the Special Rules for the Tamil Nadu Elementary Education Sub-ordinate Service for promotion to the post of Headmaster Middle School and in view of the discussions made in the foregoing paragraphs, this Court has come to the conclusion that the impugned panel prepared by the 5th respondent was based on the aforesaid Special Rules and there are no merits to interfere with the impugned order passed by the 5th respondent as contended by the petitioner in the writ petition.

16. Accordingly, the writ petition stands dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar



ak

To

- 1.The Secretary,
Department of School Education,
Fort St.George, Chennai-600009.
- 2.The Director of Elementary Education ,
College Road, Chennai -600006.
- 3.The District Elementary Educational Officer,
Nagapattinam-611001
4. The Assistant Elementary Educational Officer,
Nagapattinam -611001
5. The Additional Assistant Elementary Educational Officer,
Nagapattinam - 611001.

+1cc to Mr.P.Godson Swaminath, Advocate SR.No.62299

+1cc to Government Pleader SR.No.62220

W.P.No. 8464 of 2009
and
M.P.Nos. 1 to 3 of 2009

NK(CO)
GMY(12/01/2022)