

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5184 of 2021 and
W.M.P. No.5745 of 2021

K.Nandhakumar

... Petitioner

-vs-

- 1.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
- 2.The Joint Director of School Education (Higher Secondary),
Directorate of School Education,
DPI Campus, College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Kallakurichi District,
Kallakurichi.
- 4.The District Educational Officer,
Ulundurpet Educational District,
Kallakurichi District. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to pass orders granting promotion to the petitioner to the post of P.G. Assistant (History) on inclusion of his name in the panel for promotion to the post of P.G. Assistant (History) 2% reserved vacancies for Ministerial Staff in School Education Department by preparing year wise panel from the year 2019-20 and consequently directing the respondents to promote the petitioner on par with juniors in accordance with seniority, with all consequential and other attendant benefits, within a time frame to be fixed by this Court.

For Petitioner : Mr.A.Maheshnath

For Respondents: Mr.P.Raja,
Government Advocate

O R D E R

This Writ petition is filed, seeking a direction to the respondents to pass orders granting promotion to the petitioner to the post of P.G. Assistant (History) on inclusion of his name in the panel for promotion to the post of P.G. Assistant (History) 2% reserved vacancies for Ministerial Staff in School Education Department by preparing year wise panel from the year 2019-20 and consequently directing the respondents to promote the petitioner on par with juniors in accordance with seniority, with all consequential and other attendant benefits, within a time frame to be fixed by this Court.

2.Mr.P.Raja, learned Government Advocate takes notice for the respondents. By consent, final orders are passed in the Writ Petition at the admission stage.

3. It is the case of the petitioner that he was qualified with B.A. (History), B.Ed. and M.A., (History) in the years 2004, 2009 and 2014 respectively. While so, he was given appointment to the post of Junior Assistant in School Education Department on compassionate grounds due to sudden demise of his father A.Kannan while in service as Secondary Grade Teacher, vide appointment order issued by the fourth respondent dated 16.08.2010 and he joined the said post on 18.08.2010. Though the petitioner was entitled for promotion to the post of P.G. Assistant within 2% of vacancies earmarked for Ministerial Staff in School Education based on seniority, the respondents have not prepared any panel for the 2% vacancies reserved for Ministerial staff in School Education Department. While so, for the purpose of filling up the 2% vacancies reserved for Ministerial Staff in School Education Department, the second respondent issued proceedings dated 16.08.2019 calling for proforma particulars before 31.12.2019 in order to prepare the panel for the year 2019-20. But in the said proceedings, his name was not included, whereas number of his juniors have been included. Therefore, the petitioner submitted a representation to the respondent for inclusion of his name in the panel for promotion to the post of P.G. Assistant (History) from 2% vacancies reserved for Ministerial staff. Without considering his objections, the respondents proceeded to fill up the vacancies to the post of P.G. Assistant under 2% reserved category from Ministerial staff by conducting counselling on 06.02.2021. Hence, the petitioner is before this Court seeking the above prayer.

4. According to the learned counsel for the petitioner, the petitioner has submitted a representation dated 01.02.2021 for inclusion of his name in the panel for promotion to the post of P.G. Assistant (History), but, the same is yet to be disposed of by the 1st respondent. However, the learned counsel submitted

that it would suffice, if the said representation made by the petitioner is directed to be considered by the 1st respondent.

5. Mr.P.Raja, learned Government Advocate taking notice for the respondents, submitted that the respondents be directed to consider the petitioner's representation and pass orders in accordance with law.

6. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the 1st respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 1st respondent herein to consider the representation preferred by the petitioner dated 01.02.2021, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 1st respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 01.02.2021 and this order, to the 1st respondent forthwith;

v) The 1st respondent is 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 petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner

is not aware of the order. No costs.
miscellaneous petition is closed.

Consequently, connected

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

vum

To

- 1.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
- 2.The Joint Director of School Education (Higher Secondary),
Directorate of School Education,
DPI Campus, College Road,
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- 3.The Chief Educational Officer,
Kallakurichi District,
Kallakurichi.
- 4.The District Educational Officer,
Ulundurpet Educational District,
Kallakurichi District.

+1cc to M/s.G.Sankaran, Advocate SR.No.14357

+1cc to Government Pleader SR.No.14826

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W.P.No.5184 of 2021 and
W.M.P. No.5745 of 2021

GMI (CO)

GMV (15/04/2021)

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