

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4838 of 2021 and
W.M.P. No.5455 of 2021

N.S.Prasad

... Petitioner

-vs-

1. The State of Tamil Nadu,
Rep. By its Secretary,
Department of School Education,
Fort St. George,
Chennai 600 009.
2. The Director of Elementary Education,
DPI Campus,
College Road, Chennai - 600 006.
3. The Chief Educational Officer,
Krishnagiri District.
4. The District Educational Officer,
Krishnagiri District.
5. The Block Educational Officer,
Hosur Union, Krishnagiri District.
6. Ponnagesa
7. P.Padmavathi
8. Thenmozhi
9. Rafiq

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 to 5 herein to include the name of the petitioner for promotion to the post of Block Educational Officer as on 1.1.2021 without reference to the entry in the Service Register of the petitioner with respect to the permanent relinquishment by taking into consideration the fact that the same was only when the post of Middle School Headmaster and Block Educational Officer were interchangeable and accordingly direct the respondents to promote the petitioner to the post of

BEO on the date when his juniors are promoted with all consequential service and monetary benefits.

For Petitioner : Mrs.Dakshayani Reddy

For Respondents : Mr.P.Raja
Government Advocate

O R D E R

This Writ petition is filed, seeking a direction to the respondents 1 to 5 herein to include the name of the petitioner for promotion to the post of Block Educational Officer as on 1.1.2021 without reference to the entry in the Service Register of the petitioner with respect to the permanent relinquishment by taking into consideration the fact that the same was only when the post of Middle School Headmaster and Block Educational Officer were interchangeable and accordingly direct the respondents to promote the petitioner to the post of BEO on the date when his juniors are promoted with all consequential service and monetary benefits.

2. Mr.P.Raja, learned Government Advocate takes notice for respondents 1 to 5. As no adverse orders are going to be passed against the respondents 6 to 9, notice to R6 to R9 is dispensed with. By consent, final orders are passed in the Writ Petition at the admission stage.

3. The case of the petitioner was that he is initially appointed as a Secondary Grade Teacher in Hosur Block on 13.10.1988 and subsequently promoted as Middle School Headmaster with effect from 30.09.1999 and thereafter transferred to the post of AEEO on 25.07.2007 as the said post should be filled up only by appointment on transfer and both the posts carry equal pay. Thereafter, he was again posted as Middle School Headmaster, but, he has been deprived of inclusion of his name in the next level promotion panel for Block Educational Officer on the ground that there exists an entry in the Service Register of the petitioner with respect to permanent relinquishment. Hence, he has filed the present Writ petition for the aforesaid relief.

4. According to the learned counsel for the petitioner, the petitioner has submitted a representation dated 19.02.2021 for inclusion of his name in the panel for promotion as BEO, but, the same is yet to be disposed of by the respondents 1 to 3. Learned counsel for the petitioner submitted that it would suffice, if the said representation made by the petitioner is directed to be considered and disposed of by the respondents 1 to 4 in accordance with law.

5. Mr.P.Raja, learned Government Advocate taking notice for the respondents 1 to 5, submitted that the respondents 1 to 4 may 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 respondents, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the respondents 1 to 4 herein to consider the representation preferred by the petitioner dated 19.02.2021, if not already disposed of, and pass appropriate orders thereon, in accordance with law, and after affording an opportunity of hearing to the petitioner as well as respondents 6 to 9, as expeditiously as possible, preferably within a period of 30 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 respondents 1 to 4 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 19.02.2021 and this order, to the respondents 1 to 4 concerned forthwith;

v) The respondents 1 to 4 concerned 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. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vum

To

1. The Secretary, State of Tamil Nadu,
Department of School Education,
Fort St. George,
Chennai 600 009.
2. The Director of Elementary Education,
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College Road, Chennai - 600 006.
3. The Chief Educational Officer,
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4. The District Educational Officer,
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5. The Block Educational Officer,
Hosur Union, Krishnagiri District.

+1cc to the Government Pleader, S.R.No12765

सत्यमेव जयते

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AJB(CO)
KM(19/04/2021)

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