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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.09.2021

CORAM

The Hon'ble Mrs.Justice Pushpa Sathyanarayana  
and  
The Hon'ble Mr.Justice Krishnan Ramasamy

W.A. No.559 of 2020  
and  
C.M.P.No.7936 of 2020

1. The Chief Educational Officer,  
Thiruvallur District,  
Thiruvallur- 602 001.
2. The District Educational Officer,  
Tiruttani Educational District,  
Tiruttani, Thiruvallur District.
3. The Block Educational Officer,  
Thiruvallangadu Union,  
Thiruvallangadu,  
Thiruvallur District.

... Appellants

vs

1. D.Mariyammal
2. The Headmistress of the Panchayat Union  
Primary School,  
Raghunathapuram,  
Thiruvallangadu Union,  
Thiruvallangadu,  
Thiruvallur District-631 204.  
(R-2, suo motu impleaded as party respondent,  
vide order, dated 01.03.2021, made in  
W.A.No.559 of 2020).

... Respondents

Prayer:-

Writ Appeal filed under clause 15 of the Letters Patent  
against the order, dated 05.12.2019, passed in W.P.No.32577 of  
2019.

Prayer in W.P.No.32577 of 2019 :-

Writ Petition filed under Article 226 of the Constitution of  
India praying for the issuance of a Writ of Mandamus, directing



the respondents herein to issue the Panel for promotion as BT Assistant (Science) in Thiruvallangadu Union as on 1.1.2019 by including the name of the petitioner at Sl. No.1 therein and to promote her in the existing vacancy in Panchayat Union Middle School Rangapuram Thiruvallangadu Union Tiruvallur District and grant her consequential benefits.

For Appellants : Mr.R.Neelakandan  
State Government Counsel

For Respondent-1 : Mr.M.Ravi

For Respondent-2 : Served No appearance

#### JUDGMENT

(Delivered by Krishnan Ramasamy, J.,)

This instant Appeal has been filed against the order passed by the learned Single Judge, in W.P.No.32577 of 2019, dated 05.12.2019.

2. The above Writ Petition is filed by the appellant/writ petitioner for the following relief:-

For issuance of Writ of Mandamus, directing the respondents/appellants to issue the Panel for promotion as BT Assistant (Science) in Thiruvallangadu Union as on 01.01.2019 by including the name of the first respondent/writ petitioner at Sl.No.1 therein, and to promote her in the existing vacancy in Panchayat Union Middle School, Rangapuram, Thiruvallangadu Union, Thiruvallur District, and to grant consequential benefits.

ii) The Writ Court, after hearing the learned counsel for both sides, allowed the Writ Petition. Challenging the said order, the respondents therein filed the present Writ Appeal.

3. Mr.R.Neelakandan, the learned State Government Counsel for the appellants submits that the first respondent completed B.A. (English) in May 2012, B.Ed. in December, 2015 and B.Sc.(Chemistry) in February, 2018. She, having acquired the aforesaid qualifications was appointed as Secondary Grade Teacher on 14.12.2009, in Thiruvallangadu Union, Thiruvallur District, and subsequently, her service was regularized on 26.11.2012. While so, guidelines were issued by the first appellant for preparation of seniority panel for promotion to the post of B.T. Assistant (Science) for the year 2019, and as per the guidelines issued by the second appellant, teachers, who were qualified on the crucial date i.e. on 01.01.2019, alone are eligible for inclusion of their names in the panel, for which



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purpose, the third appellant is duty bound to verify all records/certificates submitted by the first respondent. Though the first respondent/writ petitioner claims that she has completed B.Sc. Chemistry in February, 2018 itself, as she has not produced the certificate in respect of the said degree, and also failed to enter her qualification in the service register, on the date, on which, crucial date was fixed for drawing the panel, i.e. 01.01.2019, she is not entitled to seek for inclusion of her name in the panel. In fact, the first respondent/writ petitioner made a representation to the Block Educational Officer (B.E.O.), through the Head Mistress to enter the qualification of B.Sc. (Chemistry) in the service register only on 05.01.2019. Based on the said request, B.E.O. forwarded the said letter, on the same day itself, (i.e. on 05.01.2019) to the Registrar, Periyar University, Salem, to issue genuineness certificate. The same was issued on 11.04.2019. Finally, the first respondent's qualification was entered in the service register on 08.08.2019. Therefore, the learned State Government Counsel submitted that, on the date on which, the panel was drawn, i.e. 01.01.2019, the first respondent's qualification was not entered in the service register, and therefore, her name was not included in the panel. The said vital aspect was not considered by the Writ Court in a proper perspective and it has lost sight of the same. Therefore, the learned State Government Counsel submitted that the order passed by the learned Single Judge is liable to be set aside.

4. Per contra, Mr.M.Ravi, the learned counsel for the first respondent/writ petitioner submitted that the first respondent/writ petitioner completed B.Sc. Chemistry in February, 2018 itself, for which, Periyar University issued a provisional certificate, dated 25.10.2018, followed by convocation on 27.11.2018. Thereafter, the first respondent/writ petitioner made a representation to the Block Educational Officer, Thiruvallangadu, through the Headmistress of the School, on 27.11.2018, to enter her qualification in the service register. The initial representation made by the first respondent/writ petitioner, dated 27.11.2018, was not acted upon, hence, she was compelled to make second representation, i.e. reminder, dated 05.01.2019, however, the same was acted upon and on the request of B.E.O., genuineness certificate in regard to first respondent's completion of B.Sc. Degree was issued on 11.04.2019, and on 08.08.2019, the first respondent's additional qualification was included in her service register. In the interregnum, guidelines were issued by the first appellant for preparation of seniority panel for promotion to the post of B.T. Assistant (Science) and the crucial date fixed for preparation of such panel was 01.01.2019, however, the first respondent's/writ petitioner's name was not included on the ground that, she has failed to make entry of her additional



qualification in the service register. Aggrieved over the said non-inclusion, the first respondent was constrained to approach the Writ Court to vindicate the constitutional right enshrined under Article 226 of the Constitution of India. The Writ Court, considered all these aspects in a proper perspective, allowed the Writ Petition and directed the respondents/appellants herein to include the first respondent's name in the panel drawn for promotion to the post of B.T. Assistant as on 01.01.2019. Therefore, the learned counsel submitted that the said order is a well-reasoned order and requires no interference.

5. We have given due attention to the submission made by the learned counsel for both sides and analyzed all the documents produced before us.

6. The point, which requires to be decided in the present case is as to whether the first respondent/writ petitioner is entitled to seek for inclusion of her name in the panel drawn for promotion to the post of B.T. Assistant as on the crucial date, i.e. 01.01.2019?

7. Upon perusal of some of the documents filed in support of this Writ Appeal, it is seen that the first respondent made a representation as early as on 27.11.2018, i.e. immediately on receipt of convocation from the Periyar University, for having completed B.Sc.(Chemistry) to enter the said qualification in the service register, which is followed by a reminder, dated 05.01.2019.

7.1 Further, to buttress the fact that the first respondent made such representations, a letter of the Head Mistress, S.Sankari, Panchayat Union Primary School, Thiruvallangadu, dated 29.09.2020 addressed to the appellants herein is filed in the form of Index to Typed Set of Papers at page No.11, wherein, it is stated by the Headmistress that she received the representation from the first respondent on 27.11.2018, and the same was forwarded to the B.E.O., intimating that the first respondent has successfully completed her B.Sc Degree on February, 2018 through Distance Education mode from Periyar University, Salem, enclosing the relevant certificate for appropriate action. Further, in the said letter, dated 29.09.2020, the Headmistress, S.Sankari, also stated about the receipt of the first respondent's representation, dated 04.01.2019, and forwarding the same to B.E.O on 05.01.2019.

7.2 Thus, a perusal of the documents would clearly reveal that the first respondent/writ petitioner had completed B.Sc degree (Chemistry) as early as on February, 2018, even before the panel for promotion to the post of B.T. Assistant (Science) was drawn on 01.01.2019.



7.3 Therefore, in the light of the above facts, it has to be seen as to whether, the failure on the part of the appellants to make entry of the first respondent's additional qualification of B.Sc. in the service register will deprive the first respondent from enjoying the benefit of promotion as B.T. Assistant by not including her name in the panel drawn on 01.01.2019?

7.4 The answer to the said question is straightaway 'No'. The panel was drawn in the month of September, 2019. As far as the first respondent is concerned, she has informed about her additional qualification of B.Sc. Chemistry as early as on 27.11.2018. It is not the case of the appellants that the first respondent/writ petitioner has not obtained the degree, nor she is disqualified to become B.T. Assistant. It is admitted by the appellants that the first respondent got qualified to the post, but her name was not included in the panel on the ground that, on the crucial date, she failed to enter the said additional qualification in the service register.

7.5 When such being the case, we are unable to make of anything in the submissions of the appellants, due to the reason that, failure to make entry in the service register with regard to the first respondent's additional qualification was solely on the part of the appellants. It is sheer negligence on the part of the appellants and the same cannot be put against the first respondent/writ petitioner.

7.6 Be that, as it may, it has to be stated that, though as per the guidelines issued by the second appellant, teachers, who were qualified on the crucial date i.e. on 01.01.2019, alone are eligible for inclusion of their names in the panel, however, panel for promotion to the post of B.T. Assistant was issued only in the month of September, 2019 and by that time, the first respondent's additional qualification of B.Sc. Degree was included in the service register, i.e. on 08.08.2019. Therefore, there is no impediment for the appellants to include the first respondent's name in the panel. Since the appellants failed to do so, the first respondent/writ petitioner was constrained to approach the Court, by filing Writ Petition, and the Writ Court having considered all these aspects in a proper perspective, allowed the Writ Petition.

7.7. It would be pertinent to mention here that the mandatory requirement to become eligible for promotion to the post of B.T. Assistant is that the teacher should possess additional qualification on the crucial date, on which, the panel was proposed to be drawn, which requirement, the first respondent has duly complied with. Insofar as the aspect with respect to making entry of the additional qualification in the



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service register of the teacher concerned, is concerned, it is only a procedural aspect and any lapse in the procedural aspect can be set right and if the same is set right before the date of preparation of the panel, then, the right of the concerned teacher's name to be included in the panel for promotion as on the crucial date will not be affected.

7.8 In the present case, it is admitted by both the parties that, panel was prepared in the month of September, 2019, and the first respondent's/writ petitioner's qualification of B.Sc. Degree was entered in the service register on 08.08.2019. As stated supra, we are of the view that there is no impediment for the appellants to include the first respondent's name in the panel for promotion as on the crucial date, i.e. 01.01.2019. De-hors the same, we are also of the view that the non-inclusion of the additional qualification of the first respondent, viz., B.Sc. Degree in the service register is owing to sheer negligence on the part of the appellants and the same cannot be put against the first respondent/writ petitioner and thereby, deprive her right to get promotion to the post of B.T. Assistant, by not entering her name in the panel.

7.9 In such view of the matter, we do not find any merit in the Writ Appeal and all the issues raised by the appellants were very well discussed by the Writ Court and we respect and recognize the same.

8. In the upshot, the Writ Appeal is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Educational Officer,  
Thiruvallur District,  
Thiruvallur- 602 001.
2. The District Educational Officer,  
Tiruttani Educational District,  
Tiruttani, Thiruvallur District.



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4. The Headmistress of the Panchayat Union  
Primary School,  
Raghunathapuram,  
Thiruvallangadu Union,  
Thiruvallangadu,  
Thiruvallur District-631 204.

+1cc to the Government Pleader, S.R.No.44608

W.A. No.559 of 2020

SSV(CO)  
CT(20/09/2021)