



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.03.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8259 of 2021
(Heard through VC)

M.Palanisamy

..Petitioner

-vs-

- 1.The Director of School Education,
Directorate of Elementary Education,
College Road, Chennai - 600 006.
- 2.The District Elementary Educational Officer,
District Elementary Education Office,
Kallakurichi District.
- 3.The Additional Assistant Educational Officer,
Elementary Education Office,
Sankarapuram Block,
Sankarapuram Taluk,
Kallakurichi District - 606 401.

..Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondents to consider the latest representation of the petitioner dated 15.02.2021 and consequently direct the respondents to pass orders of notional promotion as Head Master and determine the pay fixation according to the promotion within the time frame fixed by this Court.

For Petitioner	:	Ms.R.Prabhavathy
For Respondents	:	Mr.P.Raja Government Advocate

O R D E R

The petitioner has come forward with the above writ petition seeking a direction to the respondents to consider the latest representation of the petitioner dated 15.02.2021 and consequently direct the respondents to pass orders of notional promotion as Head Master and determine the pay fixation according to the promotion.



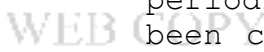
2. Mr.P.Raja, learned Government Advocate takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The case of the petitioner is that he was appointed as a Secondary Grade Teacher in the Aided Middle School, Vadakeeranur, Sankarapuram Taluk, Kallakurichi District on 11.07.1975. He was the senior most teacher in the said school. He was fully qualified to be appointed as Headmaster as per the Tamilnadu Private School Regulation Act and Rules. While so, on 10.01.1992, one Mr.P.Natarajan was appointed as Headmaster bypassing his seniority. The same was not approved by the respondent-Department. Therefore, the management of the Aided Middle School challenged the same through the writ petition in W.P.No.13914 of 1992 before this Court and the same was dismissed on the ground that before appointing the Headmaster, prior permission should have been obtained. Thereafter also the petitioner was not appointed as Head Master by the Management of the Aided Middle School, Vadakeeranur. Therefore, he preferred a writ petition in W.P.No.7365 of 2011 before this Court. This Court had disposed of the writ petition on 12.11.2009 directing the 1st respondent herein to consider the representation of the petitioner. After his retirement on 02.09.2015, the District Elementary Education Officer, Villupuram vide his communication dated 02.09.2015 had sent a communication to the 1st respondent requesting for opinion order for passing orders for his promotion and pay fixation. Thereafter, there was no progress. Hence, the petitioner has made repeated representations to the respondents requesting for passing orders regarding his notional promotion and pay fixation. The last such representation was on 15.02.2021. But, till date, there is no response from the respondents. Hence, the petitioner is before this Court.

5. It is seen that the petitioner has already approached this Court by way of filing a writ petition in W.P.No.7365 of 2001 and this Court by order dated 19.11.2009 has passed the following order:

“Accordingly without considering the merits of the claim the petitioner is granted liberty to make a representation before the first respondent detailing his grievances in the matter and in the event of filing any such representation within a period of six weeks from the date of receipt of a copy of this order, the same shall be considered and disposed of by the first respondent on merits and as per law. Such exercise shall be completed



6. Even according to the petitioner, there has been a periodical representation from the petitioner, which has not been considered by the respondents. There is no evidence to the fact that there was a periodical representation except the one that has been referred to in the order dated 02.09.2015 mentioning the date of representation of the petitioner as 03.03.2014. Even though this Court has granted time for the petitioner to make a representation, the petitioner has not availed the opportunity and due to old age he has left over the matter.

i) A direction is issued to the respondents to consider the representation of the petitioner dated 15.02.2021, 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.

iii) In case the petitioner fails to appear or file a written submission in time, the respondents 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;

v) The respondents are 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.

8. In case any favourable orders are issued in favour of the petitioner, the petitioner need not be paid any arrears in view of laches in seeking redressal before the authority/Court. No costs.

s/d-
Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

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To

- 1.The Director of School Education,
Directorate of Elementary Education,
College Road, Chennai - 600 006.
- 2.The District Elementary Educational Officer,
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Kallakurichi District.
- 3.The Additional Assistant Educational Officer,
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Sankarapuram Taluk,
Kallakurichi District - 606 401.

+1 CC to Mr.R. Prabhavathi, Advocate sr 21554.
+1 CC to The Government Pleader sr 21428.

W.P.No.8259 of 2021

GPL(CO)
SP(15/07/2021)