

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8417 of 2021 and
WMP No.8962 of 2021

M.Sivaji Ganesan

... Petitioner

-vs-

1. The Government of Tamilnadu,
Rep. by its Secretary,
Education Department,
Fort St. George,
Chennai - 600 009.
 2. The Director of School Education,
College Road, Chennai - 600 006.
 3. The Joint Director of School Education,
Personnel,
College Road, Chennai - 600 006.
 4. The Chief educational Officer,
Ranipet, Ranipet District.
 5. The Head Master,
Government Higher Secondary School,
Poottuthakku, Ranipet 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 promote the petitioner as P.G.Assistant (Tamil) in the forthcoming promotion counselling and consequently direct the respondents 4 and 5 to regularize the suspension period of the petitioner i.e., from 18.02.2013 to 21.07.2016 and grant all service benefits.

For Petitioner : Mr.M.R.Jothimanian, for
Mr.K.Balu

For Respondents: Mr.P.Raja,
Government Advocate

O R D E R

This Writ petition is filed, seeking a direction to the respondents to promote the petitioner as P.G.Assistant (Tamil) in the forthcoming promotion counselling and for a consequent direction to the respondents 4 and 5 to regularize the suspension period of the petitioner i.e., from 18.02.2013 to 21.07.2016 and grant all service benefits.

2. Mr.P.Raja, learned Government Advocate takes notice for Respondents 1 to 4. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. The case of the petitioner is that the petitioner has been working as B.T.Assistant Tamil) for more than 15 years. It is stated that the petitioner was suspended from service by the 4th respondent vide Na.Ka.No.994/Aa4/2013, dated 20.02.2013 as registration of a case in Crime No.88 of 2013 for the alleged offences under Sections 294 (b) IPC r/w 3(1) (x) SC/ST Act. But, by an order dated 30.06.2014, made in S.T.C.No.240 of 2013, the learned Judicial Magistrate No.III, Thirupaththur, Vellore District, acquitted the petitioner from all the charges. Hence, the petitioner was reinstated into service. In this circumstance, on 21.05.2015, the 3rd respondent has issued a Charge Memo under Rule 17 (b) of Tamilnadu Civil Services (Discipline and Appeal), Rules for the every same criminal charges under 3 heads and an enquiry officer has been appointed to enquire the allegations. On 17.06.2019, a punishment of Censure was imposed on the petitioner by the 4th respondent. Under these circumstances, the petitioner made an application on 03.09.2019 before the respondents to regularize his suspension period from 18.02.2013 to 21.07.2016 and also to grant further promotion on par with his juniors. The 4th respondent considered the same and issued direction to the 5th respondent to regularize the service based on eligibility leave. The 2nd respondent has issued orders for promotion to the post of P.G.Assistatn (Tamil) and petitioner made an application for the said post. But his application has not been received by the respondents 4 and 5 since his suspension period has not been regularized. Hence, this Writ Petition.

4. When the matter is taken up for hearing, it is represented by Mr.P.Raja, learned Government Advocate that the application made by the petitioner for promotion of P.G.Assistant (Tamil) will be taken on file and the same shall be considered in accordance with law.

5. Considering the facts and circumstances of the case and taking into account the the submission made by the learned Government Advocate appearing for the respondents, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the application made by the petitioner for promotion of P.G.Assistant (Tamil), 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 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;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the the application for promotion and this order, to the respondents forthwith;

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. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vum

To

1. The Secretary,
The Government of Tamilnadu,
Education Department,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The Joint Director of School Education,
Personnel,
College Road, Chennai - 600 006.
4. The Chief educational Officer,
Ranipet, Ranipet District.
5. The Head Master,
Government Higher Secondary School,
Poottuthakku,
Ranipet District.

+1cc to Mr.K.Balu, Advocate Sr.21638
+1cc to the Government Pleader Sr.21929

W.P.No.8417 of 2021 and
WMP No.8962 of 2021

pl[col]
srg 15/06/2021

सत्यमेव जयते

WEB COPY