



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.3039 of 2012

and

M.P.(MD).No.1 of 2012 and

W.M.P.(MD).No.1294 of 2020

WEB COPY

P.Glory

...Petitioner

Vs.

1.The Director of Elementary Education,
The Directorate,
DPI Compound, College Road, Chennai-6.

2.The District Elementary Education Officer,
Thiruchirappalli, Thiruchirappalli District.

3.The Assistant Elementary Education Officer,
Thiruvarampur Union,
Thiruvhirappalli District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.2540/A4/2011 dated 29.12.2011 on the file of the respondent No.2 and quash the same as illegal and consequently direct the respondents to place the petitioner in the Seniority List for promotion of the Respondent No.3 Union, as per the seniority of the petitioner from 18.02.1992 with benefits.

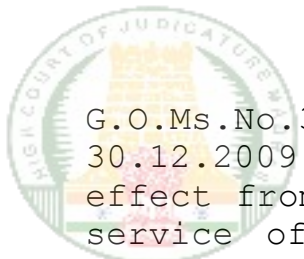
For Petitioner : Ms.Juliet Latha

For Respondents : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader

ORDER

This writ petition is filed seeking a writ of Certiorarified Mandamus, to quash the order dated 29.12.2011 passed by the second respondent and to direct the respondents to place the petitioner in the Seniority List for promotion of the Respondent No.3 Union, as per the seniority of the petitioner from 18.02.1992 with benefits.

2. The case of the petitioner is that the petitioner was appointed as Secondary Grade Teacher on consolidated pay on 03.12.1990 and joined service on 06.12.1990 and subsequently, various litigations were filed for regularisation of the consolidated pay employees, thereby, the Government issued



G.O.Ms.No.336, School Education (M-1), Department, dated 30.12.2009 and the service of the petitioner was regularised with effect from 01.09.1992 as per the above said Government Order. The service of the petitioner was not regularised from the date of initial appointment. Thereafter, the petitioner on her own volition transferred from Pudukkottai union to Tiruverumbur union and joined Tiruverumbur union on 19.02.1992 as probationer and after completion of her probation on 01.09.1994, the petitioner was promoted as Primary School Headmaster on 23.07.2007 and subsequently promoted as B.T.Assistant on 16.06.2008. However, the grievance of the petitioner is that the petitioner is entitled for retrospective promotion by considering the date of joining, but the said request was rejected by way of the order impugned in this petition. Hence this writ petition.

3. The learned counsel for the petitioner would submit that though the petitioner was initially joined on consolidated pay in the year 1990 and the service was regularised in the year 1992 after G.O.Ms.No.336 School Education (M-1) Department, dated 30.12.2009 came into effect. If the date of the petitioner's initial appointment is taken into consideration, she is entitled for retrospective promotion, however, she was promoted as Primary School Headmaster in the year 2007 and subsequently as B.T. Assistant in the year 2008, without considering the initial appointment, which is not sustainable one. Accordingly, she is entitled for retrospective promotion, while taking into consideration of the initial date of appointment. Hence, he prays for allowing this writ petition.

4. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that though the petitioner was initially appointed on consolidated basis and her service was regularised in the year 1992. Initially, the petitioner joined as Secondary Grade Teacher in Pudukottai Union and thereafter, on her own request, she was transferred to Tiruverumbur Union and joined in Tiruverumbur union as a probationer on 19.02.1992. After joining duty, her probation was completed in the Tiruverumbur Union and the person, who was transferred from the other union and joined as approved probationer in Tiruverumbur Union on 15.06.1993 was placed above the petitioner in the seniority list. Since the other person was an approved probationer at the time of joining at Tiruverumbur union, the petitioner has no grievance about the seniority. However, the petition is not maintainable one and prays for dismissal of the writ petition.

5. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.



6. The grievance of the petitioner is that the petitioner was not given promotion from the date of joining, which is not disputed in the present case. Admittedly, the petitioner was joined as Secondary Grade Teacher on consolidated pay and her service was regularised in the year 1992 and subsequently, G.O.Ms.No.336, School Education (M-1) Department, dated 30.12.2009 came into effect and further it is stated that as per the said Government Order, the petitioner's service ought to have been regularised from the date of initial appointment. At the same time, the petitioner, on her own willingness, transferred from Pudukottai Union to Tiruverumbur Union as probationer and after completion of her probation period, the petitioner was promoted as Primary School Headmaster in the year 2007. The grievance of the petitioner is that if the date of joining is taken into consideration for promotion, she is entitled for retrospective promotion from the date of initial appointment. However, the claim of the petitioner that the person, who was junior to the petitioner and transferred to Tiruverumbur Union in the year 1994 was given promotion prior to the petitioner is contrary, since the said person joined in the year 1988 and already she was approved probationer at the time of joining in Tiruverumbur Union. However the grievance of the petitioner is not properly explained either in the affidavit or in the representation and if the petitioner is able to prove that any one of the junior of the petitioner was promoted prior to the petitioner, then this Court can come to the rescue. However, in the present case, the petitioner is not able to point out any illegality in the Seniority List maintained by the Tiruverumbur Union. Hence, this Court is of the view that the grievance of the petitioner is misconceived and without producing any valuable records with regard to the promotion of the juniors prior to the petitioner, the relief sought for cannot be granted. Therefore, the order impugned need not be interfered with.

7. Accordingly, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

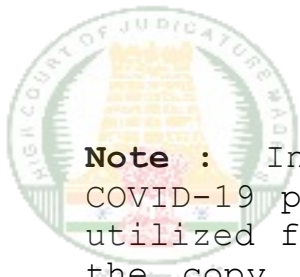
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Sub Assistant Registrar(CS)

PJL

<https://hcservices.ecourts.gov.in/hcservices/>



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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