



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.18021 of 2013

N.Ramachandran

... Petitioner

vs.

1.The Director of School Education,
Thenampettai, Chennai - 6.

2.The Chief Educational Officer,
Sivagangai District, Sivagangai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the proceedings of the first respondent in Nee.Mu. No.37657/W1/Eeel/2010 dated 03.05.2010 and O.Muu. No.100807/W1/E1/10 dated 03.12.2010, quash the same as illegal and consequently direct the first respondent to restore the order passed by him in his proceedings Nee.Muu.No.112781/W1/Eeel/09 dated 23.03.2010 and to fix the pay scale for the petitioner to the post of Head Master.

For Petitioner : Mr.M.Sankaralingam
for Mr.N.C.Ashok Kumar
For Respondents : Mr.M.Linga Durai
Government Advocate

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned proceedings of the first respondent, dated 03.05.2010 and 03.12.2010, and to direct the first respondent to restore the order passed by the first respondent, dated 23.03.2010, by fixing the pay of scale for the petitioner to the post of Headmaster as per the order.

2.Heard Mr.M.Sankara Lingam, learned Counsel for the petitioner and Mr.M.Linga Durai, learned Government Advocate appearing for the respondents.

3.The petitioner was appointed as PG Assistant at Government Higher Secondary School, Raghunathapuram, Ramnad District. The petitioner was transferred to various Schools. The petitioner was suspended from service by the Joint Director of School Education (Higher Secondary), by order, dated 29.09.2005, while he was working as a Teacher at Government Boys Higher Secondary School, Tiruchendur. The order of suspension was passed on a complaint lodged by a colleague of the petitioner. Though a case was registered in Crime No.58 of 2005 against the petitioner and charge sheet was filed, the criminal case ended in favour of the petitioner



by acquitting him from the charges. Since the order of suspension was passed during the pendency of criminal case, the order of suspension was also revoked and the disciplinary proceedings initiated were also dropped on 22.05.2009. An order was also passed on 14.08.2009 to regularize the period of suspension.

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4.It is the case of the petitioner that his promotion was delayed on account of pendency of criminal case and that the petitioner's name was not included in the list of panel prepared for the post of Headmaster till the petitioner was acquitted from the criminal charges. It is also the case of the petitioner that he is entitled to get promotion to the post of Headmaster on par with his immediate junior, who got promotion in 2007.

5.After the revocation of suspension and regularization of the period of suspension, the petitioner was promoted to the post of Headmaster, by proceedings of the first respondent, dated 23.03.2010 on par with the petitioner's junior. It was concluded by the first respondent in the said order that the petitioner is entitled to promotion with effect from the date of promotion granted to his junior and the service benefits with effect from 31.08.2007. However, by the impugned order, dated 03.05.2010, the earlier order, dated 23.03.2010, was amended by specifically stating that the petitioner will be entitled to promotion and monetary benefit only from the date of promotion, ie., on 23.03.2010. Hence, the present Writ Petition is filed with the above prayer.

6.The learned Counsel for the petitioner submitted that the petitioner was acquitted honourably from the criminal charges and that the disciplinary proceedings were dropped by the respondents.

7.Relying upon the counter affidavit, the learned Government Advocate appearing for the respondents submitted that the petitioner was suspended from service as per order, dated 21.11.2012 and that he was transferred to some other School in Pandugudi, Ramanathapuram.

8.Since no other independent charge is framed against the petitioner, except the pendency of criminal case, it is accepted that the dropping of disciplinary proceedings is consequential. When disciplinary proceedings are dropped, the petitioner is entitled to be considered for promotion to the post of Headmaster ignoring the pendency of disciplinary proceedings or criminal case, as the Criminal Court finally acquitted the petitioner from the charges. By previous order, dated 23.03.2010, the petitioner was promoted with monetary benefits with effect from the date of promotion given to the petitioner's juniors. This is the order normally expected to be passed by the respondents, unless there is a special reason. However, this order was modified without even issuing a show cause notice or an intimation to the petitioner.



9.No opportunity was given to the petitioner before passing the impugned order, dated 03.05.2010. When a representation was made, the same was also rejected by the subsequent order, dated 03.12.2010, without assigning any reasons. The petitioner's promotion was delayed due to the pendency of criminal case. When the criminal case was ended in favour of the petitioner, he is entitled to be considered for promotion with effect from the date on which his junior is promoted. The promotion was denied to the petitioner on account of pendency of criminal proceedings. There is no reference to any subsequent proceedings initiated against the petitioner. The misconduct if any subsequent to the order of promotion will be dealt with accordingly by the respondents. However, the same cannot be cited as a reason to deny monetary benefits to the petitioner. When he was promoted on par with his juniors, the monetary benefit with effect from the date of promotion ought to have been given. This Court, therefore, is unable to sustain the impugned orders passed by the first respondent.

10.As a result, this Writ Petition is allowed and the impugned orders passed by the first respondent, dated 03.05.2010 and 03.12.2010 are quashed and the first respondent is directed to restore the order passed by him vide proceedings, dated 23.03.2010 and further directed to fix the pay scale for the petitioner to the post of Head Master with effect from the date of notional promotion. The entire exercise shall be done by the first respondents within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tmg/cmr

To

1.The Director of School Education,
Thenampettai, Chennai - 6.

2.The Chief Educational Officer,
Sivagangai District, Sivagangai.

+1 CC to M/s.N.C.ASHOK KUMAR, Advocate (SR-29403[F]dated 17/09/2021)
+1 CC to M/s.SPL. GP (SR-29594[F] dated 20/09/2021)

Order made in
W.P.(MD) No.18021 of 2013
16.09.2021

GC(01.10.2021) 3P 5C

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