



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD).No.18027 of 2013

and

M.P.(MD)No.2 of 2013

N.Uthirapathy

... Petitioner

Vs.

1.The Director of Elementary Education
College Road, Chennai - 600 006.

2.The District Elementary Educational Officer,
Thanjavur, Thanjavur District.

3.The Assistant Elementary Educational Officer
Orathanadu, Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in Na.Ka.No.1389/A4/2013, dated 21.06.2013, passed by the second respondent and quash the same and further direct the respondents to consider the qualification of the petitioner and promote him as a Middle School Headmaster.

For Petitioner : Mr.V.M.Balamohan Thambi

For Respondents 1 to 3 : Mr.M.Linga Durai
Government Advocate

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order of the second respondent, dated 21.06.2013, and to direct the respondents to consider the qualification of the petitioner and promote him as Middle School Head Master.

2.Heard Mr.V.M.Balamohan Thambi, learned Counsel for the petitioner and Mr.M.Linga Durai, learned Government Advocate appearing for the respondents.

3.The petitioner was appointed as a part time Craft Teacher in 1983. Subsequently, in July 1996, he was appointed as a full time Craft Teacher and received the scale of pay, as applicable to the Secondary Grade Teacher. The petitioner was awarded selection grade in the year 1996. The petitioner completed B.Lit. (Tamil), degree



in 1996 and he has also completed B.Ed., degree. The petitioner also completed his Master's degree in the year 2003.

4.It is the case of the petitioner that he was qualified to the post of Tamil Pandit from the year 1996 and that the respondents had not promoted the petitioner. Since the petitioner was denied promotion to the post of Tamil Pandit, the petitioner filed a Writ Petition in W.P.No.35993 of 2004 before this Court for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the Assistant Elementary Educational Officer, Orathanadu, dated 19.05.2004, and to direct the respondents to promote the petitioner as a Tamil Pandit with effect from 13.06.2003. It is the further case of the petitioner that he was promoted to the post of Tamil Pandit during the pendency of that Writ Petition in the year 2007. Thereafter, the petitioner filed a memo to withdraw the Writ Petition and the Writ Petition was dismissed as withdrawn by an order dated 19.12.2007.

5.The Petitioner even in the affidavit filed in support of this Writ Petition admitted that the respondents promoted the petitioner only in the year 2007. However, the petitioner contends that he was entitled for promotion to the post of Tamil Pandit from 1996. Referring to the seniority list, that was found in the typed set filed on behalf of the petitioner, it is submitted that the petitioner was placed in Sl.No.1, in the seniority list for promotion to the post of Middle School Headmaster, as on 01.01.2013. However, the petitioner was placed in Serial No.38 in the combined seniority list. Hence, the petitioner sent a representation, dated 20.04.2013 to the respondents. However, the second respondent, by the impugned order, dated 21.06.2013, rejected the petitioner's representation. Aggrieved by the same, the above Writ Petition is filed.

6.It the case of the respondents in the counter affidavit that though the petitioner was qualified to be promoted as B.T. (Tamil) Teacher for the year 2003-2004, he was not promoted to the post of B.T. (Tamil) Teacher, as there was no vacancy in Orathanadu Union. Subsequently, the petitioner was promoted as B.T.(Tamil) Teacher in the year 2007. It is admitted that the petitioner joined duty as B.T.(Tamil) Teacher on 05.11.2007. Since other candidates were promoted to the post of B.T.(Tamil) Teacher much earlier to the promotion given to the petitioner, it is contended by the respondents that the petitioner cannot compare himself with the candidature of K.Prema or S.Thenmozhi, as they were promoted to the feeder category long before the promotion of the petitioner to the feeder category, namely, B.T.(Tamil) Teacher.

7.It is not in dispute that only a B.T. Assistant with qualification of B.T or B.Lit and B.Ed, is eligible to hold the post of Secondary Grade Assistant and Primary School Head Master. Though



the petitioner's eligibility to be promoted as Middle School Headmaster is not disputed, the petitioner's request that he should be placed senior to K.Prema and S.Thenmozhi cannot be considered, as they were promoted as B.T.(Tamil) Teacher much earlier to the petitioner. When the petitioner himself admitted that he was promoted to the post of B.T.(Tamil) Teacher only on 05.11.2007, the respondents are right in submitting that the date of appointment or promotion to the feeder category is the relevant criteria and that the petitioner being appointed to the post of B.T.(Tamil) Teacher in 2007, cannot be considered as senior to the other Teachers, who were appointed to the feeder category much earlier to the petitioner.

8.Seniority for promotion as Middle School Headmaster is prepared and approved with reference to the date of joining in the feeder category. The petitioner though was qualified for promotion to the post of Middle School Headmaster, the date of petitioner's appointment in the feeder category will decide the eligibility of the petitioner to claim seniority over the other teachers, who were promoted to the post of Middle School Headmaster much earlier to the petitioner on the basis of their appointment or promotion to the post of B.T.(Tamil) Teacher. The petitioner though filed a Writ Petition earlier, it is seen that the petitioner was not successful in challenging the order impugned in that Writ Petition denying promotion to the petitioner. Having filed the Writ Petition earlier, the petitioner withdrew the Writ Petition by accepting his promotion to the feeder category with effect from 2007.

9.In view of the facts narrated above, the petitioner cannot be considered for promotion to the post of Middle School Headmaster on the ground that his junior was promoted to the post of Middle School Headmaster earlier. Hence, this Court is not inclined to entertain this Writ Petition. However, the petitioner is entitled to be considered for promotion taking into account his promotion to the post of feeder category, namely, Tamil Pandit in 2007.

10.Accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr/nsr



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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

- 1.The Director of Elementary Education
College Road, Chennai - 600 006.
- 2.The District Elementary Educational Officer,
Thanjavur, Thanjavur District.
- 3.The Assistant Elementary Educational Officer
Orathanadu, Thanjavur District.

+1 CC to M/s.V.M.BALAMOHAN THAMBI, Advocate (SR-27865[F] dated 02/09/2021)

+1 CC to M/s.GP (SR-27901[F] dated 02/09/2021)

W.P. (MD) No.18027 of 2013
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