



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. (MD) Nos. 14675 of 2015, 22955 of 2016, 856 of 2017
and 10729 of 2018

and

M.P. (MD) .Nos. 1 & 2 of 2015 in W.P. (MD) .No. 14675 of 2015

and

W.M.P. (MD) .No. 714 of 2017 in W.P. (MD) .No. 856 of 2017

and

W.M.P. (MD) .No. 16430 of 2016 in W.P. (MD) .No. 22955 of 2016

W.P. (MD) .Nos. 14675/2015, 22955/2016 & 10729/2018:

S. Ramkumar

... Petitioner in

W.P. (MD) .Nos. 14675/2015,
22955/2016 & 10729/2018

Vs.

1. The Director of Elementary Education,
DPI Campus, Nungampakkam, Chennai-6.

2. The District Educational Officer,
O/o. District Education Office,
Tanjore-613 001.

3. The Additional Elementary Educational Officer,
O/o. Additional Elementary Education Office,
Muthupillai Mandapam,
Kumbakonam, Tanjore

... Respondents in
W.P. (MD) .Nos. 14675/2015,
22955/2016 & 10729/2018

4. Vijay Shanthi

... 4th Respondent in
W.P. (MD) .Nos. 14675/2015

W.P. (MD) .No. 856 of 2017:

S. Suganthi Rani

.. Petitioner

Vs.

1. The Director of Elementary Education,
Nungampakkam, Chennai-600006.

2. The District Educational Officer,
Thanjavur, Thanjavur District, Pin-613 001.



3. The Additional Elementary Educational Officer,
Muthupillai Mandapam, Kumbakonam,
Thanjavur District.

4. S. Ramkumar

... Respondents

Prayer in W.P. (MD) No. 14675/2015: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned proceedings of the 2nd respondent vide Na.ka.No.2781/Aa1/2012 dated 27.7.2012, Na.Ka.No.2223/A4/2015 dated 7.8.2015 and quash the same as illegal and consequently direct the 2nd and 3rd respondents to refix the petitioner's seniority in the seniority list of B.T. Assistant (English) in Kumbakonam Union, Tanjore District.

Prayer in W.P. (MD) No. 22955/2016: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to promote the petitioner as B.T. Assistant (English) by considering his seniority and also direct to post him in the vacancy place of B.T. Assistant (English) in Ammapettai Panchayat Union Middle School, Kumbakonam Union, Thanjavur District, by considering his application, dated 06.06.2016 in the light of the Interim Direction passed by this Court in W.P (MD) No.14675/2015.

Prayer in W.P. (MD) No. 10729/2018: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to promote the petitioner as B.T. Assistant (English) by considering his seniority and also direct to post him in the vacancy place of B.T. Assistant (English) in Ammapettai Panchayat Union Middle School, Kumbakonam Union, Thanjavur District, by considering his application, dated 06.06.2016 in the light of the Interim Direction passed by this Court in W.P (MD) No.14675/2015 dated 14.08.2015.

In W.P. (MD) Nos. 14675/2015, 22955/2016 & 10729/2018:

For Petitioner : Mr.S.Arivalagan

For Respondents 1 to 3 : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader

For Respondent No.4 : Mr.M.Saravanakumar
(in WP (MD).14675 of 2015)

Prayer in W.P. (MD) No. 856/2017: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to promote the petitioner as Graduate Teacher (English) in the existing vacancy in Kumbakonam Union, Thanjavur District.



For Petitioner : Mr.M.Saravanakumar
For Respondents 1 to 3 : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader
For Respondent No.4 : Mr.S.Arivalagan

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COMMON ORDER

Since the issue involved in these writ petitions are one and the same, these writ petitions are disposed of by way of common order.

2. W.P.(MD).No.14675/2015 has been filed for issuance of a writ of certiorarified mandamus, to call for the records relating to impugned proceedings of the 2nd respondent vide Na.ka.No.2781/Aa1/2012 dated 27.7.2012, Na.Ka.No.2223/A4/2015 dated 7.8.2015 and quash the same as illegal and consequently direct the 2nd and 3rd respondents to refix the petitioner's seniority in the seniority list of B.T. Assistant (English) in Kumbakonam Union, Tanjore District.

3. The other two writ petitions in W.P.(MD).Nos.22955/2016 & 10729/2018 have been filed for issuance of a Writ of Mandamus, directing the 2nd respondent to promote the petitioner as B.T. Assistant(English) by considering his seniority and also direct to post him in the vacancy place of B.T. Assistant (English) in Ammapettai Panchayat Union Middle School, Kumbakonam Union, Thanjavur District, by considering his application, dated 06.06.2016 in the light of the Interim Direction passed by this Court in W.P (MD) No.14675/2015 dated 14.08.2015.

4. W.P.(MD).No.856/2017 has been filed for issuance of a Writ of Mandamus, directing the 2nd respondent to promote the petitioner as Graduate Teacher (English) in the existing vacancy in Kumbakonam Union, Thanjavur District.

W.P. (MD) .No.14675/2015:

5. The case of the petitioner in W.P.(MD).No.14675 of 2015 is that the petitioner was appointed as Secondary Grade Teacher through Employment Exchange on 07.10.2004 in Narasinga Mangalam Panchayat Union Primary School on consolidated pay. Accordingly, he joined in the said school on 15.10.2004. Thereafter, on his request, he was transferred to Keezakorukai Panchayat Union Middle School, Kumbakonam on 08.12.2005. Subsequently, the State cancelled the consolidated basis appointment vide G.O.Ms.No.100 and the petitioner's appointment was made permanent from 01.06.2006 and thereafter, the petitioner completed his probation on 31.05.2008. During his service, the petitioner obtained departmental permission to pursue his higher studies. Accordingly, he passed B.A.(English) Degree in May, 2007 through Annamalai University and B.Ed., (English)



Degree in December, 2010, through Indira Gandhi National Open University. Immediately after receiving the certificates, he enrolled the higher studies with the 2nd respondent office through 3rd respondent. In the meantime, he was transferred to Kallapuliyur Panchayat Union Primary School on 1.6.2010 on his own request. While he was working in the said school till date and every year, the panel for promotion to the post of B.T. Assistant was prepared on 1st January itself. However, the petitioner's name was found missing in the said panel, which was circulated in the year 2012 and the 2nd respondent promoted one Prabha as B.T. Assistant, Secondary Grade Teacher, Dharasuram Panchayat Unioni School and appointed her as B.T. Assistant (English) in Puliyanbadi Panchayat Union Middle School. Immediately, the petitioner made objection to the 2nd respondent for the above said promotion post. On the objection made by the petitioner, the 2nd respondent de-promoted her in the original post and subsequently, again the 2nd respondent promoted one Vijay shanthi as B.T. Assistant (English) vide order, dated 27.7.2012 and promoted her as B.T. Assistant Teacher in Puliyanbadi Panchayat Union Middle School on 31.7.2012. Challenging the said promotion order, this writ petition has been filed.

6. The learned counsel for the petitioner would submit that the petitioner is senior to the 4th respondent both were completed B.A. (English) and B.Ed. (English) degree in the same year and hence, both of them have the same merits and ability. Hence, in these circumstances, seniority should be considered. By birth, the petitioner is senior to the said Vijaya Shanthi, ie., the petitioner's date of birth is 15.4.1981 whereas her date of birth is 17.7.1984. If the petitioner and the 4th respondent acquired equal educational qualification, their age has to be considered for inclusion in the panel list. But, without considering the age factor, the 4th respondent was included in the said panel and promoted to the said post is unsustainable one. Accordingly, he prayed for allowing this writ petition.

7. Per contra, the learned Additional Government Pleader appearing for the official respondents would submit that the petitioner was initially appointed as Narasinga Mangalam Panchayat Union Primary School in the year 2004 whereas the 4th respondent was appointed as Secondary Grade Teacher in Kumbakonam Union and both were probationers. When the probationers transferred from one union to some other union, he/she is placed below the probationer working in the same union. Hence, the petitioner was transferred from someother union and he was placed below the 4th respondent. He would further submit that though both the petitioner and the 4th respondent were regularised on 01.6.2006, however, the 4th respondent hails from the same Kumbakonam union and the petitioner was transferred to the said union and hence he was placed below the 4th respondent and therefore, promotion granted in favour of the 4th repondent is locally sustainable one. Accordingly, the order impugned in this



writ petition need not be interfered with by this Court. He would further submit that pending this writ petition and obtained an interim order from this Court, the petitioner again filed the two writ petitions for the same relief, without challenging the seniority list prepared in the year 2012. Hence, he prays for dismissal of this writ petition.

8. Considering the facts and circumstances of the case and also considering the submissions made by the learned Additional Government Pleader, the relief sought for by the petitioner in this writ petition cannot be granted. Accordingly, W.P.(MD).No.14675 of 2015 stands dismissed. No Costs. Consequently, connected miscellaneous petitions are also dismissed.

9. In view of the order of dismissal of the above W.P.(MD). No.14675 of 2015, this Court is inclined to dispose of the other writ petitions which are filed for the issue of writ of mandamus seeking a direction to the official respondents. Accordingly, W.P. (MD).Nos.22955 of 2016, 10729 of 2018 and 856 of 2017 are disposed of with a direction to the official respondents to consider the eligible candidates, who are working in the said Union, as per the Government Orders and Rules and pass appropriate orders in accordance with law. Further, the respondents shall consider the petitioner's request in W.P.(MD).Nos.22955 of 2016 and 10729 of 2018 in the manner known to law. No Costs. Consequently, connected miscellaneous petitions are closed.

10. Further, insofar as the consideration of the representation made by the petitioner in W.P.(MD).No.856 of 2017 requesting her to promote her in the said Union as B.T.Assistant (English), may be considered and there is no legal bar for considering the said representation of the petitioner, in accordance with law, if she is otherwise eligible.

Sd/-

Assistant Registrar(CS-III)

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/ /2021

Sub Assistant Registrar(CS)

PJL

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,
DPI Campus, Nungampakkam,
Chennai-6.

2. The District Educational Officer,
O/o. District Education Office,
Tanjore-613 001.

3. The Additional Elementary Educational Officer,
O/o. Additional Elementary Education Office,
Muthupillai Mandapam,
Kumbakonam.

+1 CC to M/s. SPL GP (SR-11606[F] dated 16/03/2021)

+1 CC to M/s. M. SARAVANAKUMAR (SR-11406[F] dated 16/03/2021)

W.P. (MD) Nos. 14675 of 2015,
22955 of 2016, 856 of 2017
and 10729 of 2018
15.03.2021

ma (CO)

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