



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2021

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

W.P. (MD)Nos.16848 and 13865 of 2016 and 14412 of 2017

and

W.M.P(MD)No.12220 to 12222 and 10325 and 10326 of 2016

W.P(MD)No.16848 of 2016

R.Mariraj

... Petitioner

Vs.

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

2.The District Elementary Educational Officer,
R.M.S Road, Madurai-625 001.

3.The Additional Assistant Elementary
Educational Officer,
Madurai West,
Anaiyur, Madurai-625 017

4.Tmt.M.Tamilarasi
(Formerly Head Master,
P.U.Primary School, Maranivariyenthal)
Tamil Pandit,
Govt. High School,
Thiruppalai,
Madurai-625 014.

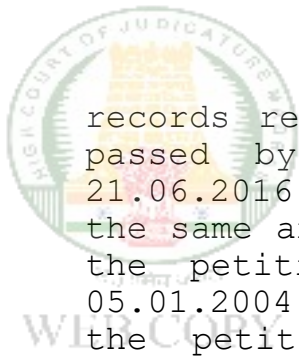
5.Tmt.R.Muthuselvi,
(Formerly Headmaster, P.U.Primary School,
Paraipatti)
Headmaster,
Panchayat Union Middle School,
Ariyur, Madurai-625 017.

6.Tmt.C.Malarvizhi,
Tamil Pandit,
Panchayat Union Middle School,
Vilangudi, Madurai-625 018.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the

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



records relating to the order Na.Ka.No.74/B1/2015 dated 29.02.2016 passed by the 3rd respondent, order Na.Ka.No.12/A5/2016 dated 21.06.2016 dated 05.08.2016 passed by the 1st respondent and quash the same and consequently direct the 1st to 3rd respondent to promote the petitioner as Primary School Headmaster with effect from 05.01.2004 on par with his junior ie., 4th respondent and to promote the petitioner as Middle School Headmaster with effect from 06.08.2016 on par with his junior ie., 5th respondent and grant all the service and monetary benefits within a time limit to be fixed by this Court.

For Petitioner : Mr.A.Thirumurthy,
for M/s.Victory Associates
For R1 to R3 : Mr.C.M.Marichelliah Prabhu, AGP
For R4 to R6 : No appearance

W.P(MD)No.13865 of 2016

R.Mariraj ... Petitioner

Vs.

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

2.The District Elementary Educational Officer,
R.M.S Road, Madurai-625 001.

3.The Additional Assistant Elementary Educational Officer,
Madurai West,
Anaiyur, Madurai-625 017.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to consider the representation dated 02.07.2016 of the petitioner and to restore the petitioner's seniority at the appropriate place in the promotion panel for promotion to the post of Middle School Headmasters for the year 2016 ie., as on 01.01.2016, based on the petitioner's date of joining as Secondary Grade Teacher ie., 06.07.1994 in Madurai West Panchayat Union, in the light of the guidelines issued in the Proceedings Na.Ka.No.5939/E.D.1/2001 dated 15.11.2001 of the 1st respondent and the promotion panel published for the years 2012, 2013 and 2014 published placing the petitioner at the 1st place and consequently, to promote the petitioner as Middle School Headmaster in the Madurai West Panchayat Union within a time time to be fixed by this Court.

For Petitioner : Mr.A.Thirumurthy
for M/s.Victory Associates



For R1 to R3

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

W.P (MD) No.14412 of 2017

R.Mariraj

... Petitioner

WEB COPY

Vs.

- 1.The Director of Elementary Education,
DPI Complex, College Road,
Chennai-600 006.
 - 2.The District Elementary Educational Officer,
R.M.S Road, Madurai-625 001.
 - 3.The Additional Assistant Elementary Educational Officer,
Madurai West,
Anaiyur, Madurai-625 017
 - 4.Tmt.R.Muthuselvi
Headmaster,
Panchayat Union Middle School,
Ariyur, Madurai-625 017
 - 5.Tmt.C.Malarvizhi
B.T(Tamil), Panchayat Union Middle School,
Vilangudi, Madurai-625 018.
- ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first and second respondents to promote the petitioner regularly as Middle School Headmaster based on the petitioner's original seniority from 06.07.1994 prior to the promotion of the petitioner's junior Tmt.C.Malarvizi (5th respondent).

For Petitioner : Mr.A.Thirumurthy
for M/s.Victory Associates
For R1 to R3 : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader
For R4 and R5 : No appearance

COMMON ORDER

As the issues raised in all the petitions are interconnected, they are taken up together and disposed of by this common order. W.P. (MD) No.16848/16 has been filed challenging the order, dated 29.02.2016 passed by the third respondent in Na.Ka.No.74/B1/2015 and the order dated 05.08.2016 passed by the first respondent in Na.Ka.No.12/A5/2016 and to quash the same and consequently, to direct the respondents 1 to 3 to promote the petitioner as Primary School Headmaster with effect from 05.01.2004 on par with his junior



ie., 4th respondent and to promote the petitioner as Middle School Headmaster with effect from 06.08.2016 on par with his junior ie., 5th respondent and grant all the service and monetary benefits within a time limit to be fixed by this Court. The facts in this writ petition being relevant to decide the issue raised, and order passed in this writ petition would cover the issues raised in the other writ petitions, the same is adverted to below.

2.The case of the petitioner is that after completion of B.Sc., and B.Ed., he was appointed as Secondary Grade Teacher in Kottampatti Panchayat Union and he joined duty on 07.10.1989. Thereafter, the petitioner was transferred to Madurai West Panchayat Union, on 06.07.1984. The Secondary Grade Teachers are eligible for promotion as Headmasters of Primary School, only based on their seniority in the cadre of Secondary Grade Teacher within the concerned Panchayat Union. Whileso, considering the petitioner's qualification and his seniority in the cadre of Secondary Grade Teacher, he was promoted as B.T. Assistant (Science) on 24.12.2002 and posted at Madurai West Panchayat Union Middle School, Anaiyur and worked in the said post, till 12.08.2003. Due to the upgradation of the Panchayat Union Middle School, the Headmaster of the said Middle School was transferred by reverting him to the post of B.T. Assistant (Science) in place of the petitioner at the Panchayat Union Middle School, Anaiyur. For administrative reasons, the petitioner was reverted as Secondary Grade Teacher and posted at Panchayat Union Middle School, Thenur and again served as Secondary Grade Teacher from 13.08.2003 to 21.11.2004. Thereafter, the first respondent has issued the guidelines dated 05.07.2001 and 15.11.2001 for preparation of panel for promotion to the post of Middle School Headmaster.

3. It is the further averment of the petitioner that though he was placed at the first place in the promotion panel to the post of Primary School Headmaster for the year 2004, however, the petitioner's junior viz., M.Tamilarasi/fourth respondent, was promoted as Primary School Headmaster on 05.01.2004. Subsequently, the other juniors viz., 5th and 6th respondents were also promoted as Primary School Headmasters, on 16.09.2004 and 17.09.2004 respectively. However, the petitioner was not promoted. Hence, the petitioner made a representation dated 17.09.2004 to the respondents. In the meanwhile, the promotion panel to the post of Middle School Headmaster for the year 2016 was published, wherein, the petitioner's name was placed below the 5th and 6th respondents. Therefore, the petitioner once again made a representation dated 11.01.2016 to the respondents. Since the respondents did not take any action, the petitioner has filed an appeal on 14.01.2016 before the second respondent. Thereafter, the third respondent has passed an order dated 29.02.2016 stating that respondents 4 to 6 were promoted as Primary School Headmasters prior to his reversion as B.T. Assistant and the same position was continued in the promotion panel for the year 2016. Again, the petitioner has filed an appeal



on 02.07.2016 before the first respondent and the said appeal was dismissed on 05.08.2016 confirming the order of the second respondent. Challenging the same, W.P. (MD) No.16848/16 has been filed.

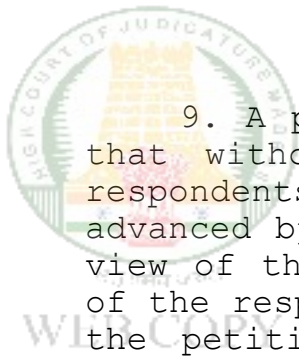
4. The learned counsel appearing for the petitioner submitted that as per the proceedings of the first respondent in Na.Ka.No.5939/E.D.1/2001 dated 15.11.2001, the B.T. Assistants, were reverted as Secondary Grade Teachers for administrative reasons, for want of vacancy, and, therefore, they should be placed at the first place in the cadre of Secondary Grade Teachers and promoted as Primary School Headmasters. If any one of the junior got promotion to the post of Primary School Headmaster, the junior has to be reverted and in that place, B.T. Assistant/Primary School Headmaster/Tamil Teacher has to be accommodated. Without following the said norms, the respondents had rejected the petitioner's request, which is unsustainable. Hence, he prays for allowing the present writ petition.

5. On the above contentions, this Court heard the learned Government Advocate for the respondents, who did not dispute the facts as also the position of law as submitted by the learned counsel for the petitioner.

6. This Court paid its undivided attention to the submissions advanced by the learned counsel for the petitioner and also perused the materials available on record.

7. The facts in the present case are not in dispute. Admittedly, the petitioner entered into service in the year 1989 and initially he was transferred as B.T Assistant on 24.12.2002 and posted at Madurai West Panchayat Union from which post he was reverted as Secondary Grade Teacher, for want of vacancy. Again the petitioner served as Secondary Grade Teacher from 13.08.2003 to 21.11.2004. In the meanwhile, the 5th and 6th respondents were given promotion as Primary School Headmaster on 16.09.2004 and 17.09.2004 respectively, though the petitioner was promoted as B.T Assistant in the year 2002 itself. Admittedly, the petitioner was senior to respondents 5 and 6 in the substantive post and he should have been placed above the said respondents in the panel for promotion.

8. Learned counsel for the petitioner drew the attention of this Court to the guidelines dated 05.07.2001, which makes it clear that on administrative grounds, if any one of the Secondary Grade Teacher, who was holding the post of B.T Assistant/ Primary School Headmaster/Tamil Teacher, stood reverted as Secondary Grade Teacher, on such reversion, if any of his juniors have been promoted as Primary School Headmaster, the said junior has to be reverted and in that place, the senior, who stood reverted should be accommodated as Primary School Headmaster.



9. A perusal of the materials placed before this Court reveals that without considering the guidelines aforesaid, the official respondents rejected the petitioner's representation. The reasoning advanced by the respondents for such rejection is totally flawed in view of the guidelines, which stood framed and, therefore, the act of the respondents in not following the guidelines and not promoting the petitioner and placing him over his juniors deserves to be interfered with.

10. Accordingly, W.P. No.16848/2016 is allowed and the impugned orders in Na.Ka.No.74/B1/2015, dated 29.02.2016, passed by the third respondent and in Na.Ka.No.12/A5/2016 dated 21.06.2016, dated 05.08.2016, passed by the first respondent are quashed and the matter is remanded back to the authority for fresh consideration and for passing appropriate orders in accordance with law on the basis of the proceedings in Na.Ka.No.5939/ED1/2001, dated 15.11.2001. The said exercise shall be completed by the respondents within a period of twelve weeks from the date of receipt of a copy of this order.

11. In view of the order passed in W.P. (MD) No.16848 of 2016, no further orders are required to be passed in the other Writ Petitions viz., W.P(MD)Nos.14412 of 2017 and 13865 of 2016 and, accordingly, the said writ petitions stand closed. Consequently, connected miscellaneous petitions are also closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

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

2.The District Elementary Educational Officer,
R.M.S Road, Madurai-625 001.

3.The Additional Assistant Elementary
Educational Officer,
Madurai West, Anaiyur, Madurai-625 017.

+1 CC to M/s.SPL GP (SR-12111[F] dated 18/03/2021)
12118,12122



W.P.(MD)Nos.16848, 13865 of 2016 and 14412 of 2017

+1CC to Mr.A.Thirumurthy,, Advocate, SR.No.12088 dated 18/03/2021

**W.P. (MD) Nos.16848/16,
13865/16 & 14412/17
17.03.2021**

WEB COPY

KB(23.06.2021) 7P 6C