



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.02.2021

CORAM:

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

W.P. (MD)No.7365 of 2016

and

W.M.P. (MD) .No.6191 of 2016

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1.P.Jeyanthi Rani

2.K.Thangavel

... Petitioners

Vs.

1.The State of Tamil Nadu

represented by its Principal Secretary,

Department of Elementary Education,

Fort St. George,

Chennai -9.

2.The Director of Elementary Education,

Chennai -6.

3.The District Elementary Educational Officer,

Dindigul,

Dindigul District.

4.The Assistant Elementary Educational Officer,

O/o. The Assistant Elementary Educational Officer,

Vedachandur,

Dindigul District.

5.R.Senthilkumar

6.Mrs.T.Neelaveni

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus forbearing the respondents 3 and 4 from making any promotion to the post of B.T.Assistant (Mathematics) in Vedachandur Union, Dindigul District, without considering the petitioners place on top of the panel for promotion to the post of B.T.Assistant (Mathematics) in Vedachandur Union, Dindigul District.

For Petitioners : Mr.T.Lajapathi Roy

For R1 to R4 : Mr.C.M.Marichelliah Prabhu

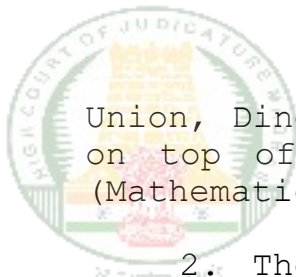
Additional Government Pleader

For R5 : Mr.T.Pon Ramkumar

For R6 : No appearance

O R D E R

This writ petition has been filed for issuance of a writ of Mandamus forbearing the respondents 3 and 4 from making any promotion to the post of B.T.Assistant (Mathematics) in Vedachandur



Union, Dindigul District, without considering the petitioners' place on top of the panel for promotion to the post of B.T.Assistant (Mathematics) in Vedachandur Union, Dindigul District.

2. The case of the petitioners is that the petitioners were appointed as Secondary Grade Teachers and the first petitioner was promoted to the post of Primary School Head Mistress at Panchayt Union Primary School, Pazhaya Thoppur, Vedachandur Union, Dindigul District and the second petitioner is working as Secondary Grade Teacher at Panchayat Union Elementary School, Puduchettiur, Vedachandur Union, Dindigul District. Every year, a panel of Elementary School Head Masters and Secondary Grade Teachers was prepared for promotion to the post of B.T.Assistant. A separate seniority list was drawn in the post of Secondary Grade Teacher in Vedachandur Union, based on the date of joining in the said Union, in which the first petitioner is at Serial No.1 and the second petitioner is at Serial No.2 and the fifth respondent is at Serial No.3. While so, in the vacant post of B.T.Assistant (Mathematics), the sixth respondent was transferred from Salem District to Vedachandur Union on 29.07.2013. That transfer order was challenged by the fifth respondent by filing the writ petition in W.P.(MD). No.15181 of 2013, on the ground that he is No.1 in the panel and his promotion was deprived, due to the transfer of the sixth respondent and this Court, by order dated 15.12.2015, set aside the transfer order. Aggrieved by the said order, the State has preferred an appeal before this Court in W.A.(MD).No.1345 of 2016 and this Court, by order dated 25.04.2017, dismissed the writ appeal. Thereafter, the fifth respondent has filed a contempt petition before this Court in Cont.P.(MD).No.229 of 2016. After filing the contempt petition, the fifth respondent was accommodated in the vacancy post, without transferring the sixth respondent to the original place. Aggrieved by the said accommodation of the fifth and sixth respondents, the present writ petition is filed in the year 2016, with the aforesaid prayer.

3. The learned counsel appearing for the petitioners would submit that as per the seniority list published in the year 2013, the fifth respondent is No.1 and the petitioners are in second and third place. Admittedly, the petitioners have no serious objection for promoting the fifth respondent. However, the petitioners are aggrieved by the transfer and the appointment of the sixth respondent in Vedachandur Union. He would further submit that the transfer of sixth respondent is bad in law and retaining the sixth respondent in Vedachandur Union is contrary to the order of this Court. If the sixth respondent is transferred to the original place, the petitioners will be accommodated in the promotional post and on the sole ground, the present writ petition has been filed.

4. Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for the respondents 1 to 4, the learned counsel appearing for the fifth respondent and perused the records. The records are available on record.



5. Though the name of the sixth respondent is appeared in the cause list, no one appeared on behalf of the sixth respondent. Hence, considering the pendency of the writ petition, based on the available records, this Court taken up the matter for disposal.

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6. The facts in the present case are not in dispute. The grievance of the petitioners as well as the fifth respondent is that the transfer of sixth respondent from Salem District to Vedachandur Union in the promotional post available in Vedachandur Union. Equally, it is also not in dispute that the sixth respondent's earlier transfer order was set aside in W.P.(MD).No.15181 of 2013, dated 15.12.2015 and the same was also confirmed in W.A.(MD).No.1345 of 2016, dated 25.04.2017. However, in compliance of the order, the official respondents have not taken any steps to transfer the sixth respondent to the original place and he was retained in the very same place, thereby the petitioners are aggrieved. It is relevant to mention that as per G.O.(Ms.)No.239, dated 22.09.2007, the promotional post of B.T.Assistant has to be filled up only through promotion and if no eligible candidates / secondary grade teacher available in the particular Union, then the eligible candidates can be transferred to some other Union or some other District from the present Union, by getting consent from the Government. Contrary to the said G.O., it appears that the sixth respondent was transferred from Salem District to Vedachandur Union and the said transfer also set aside by this Court. However, for the reason best known to the official respondents, till date the sixth respondent was not transferred to the original Union and *prima facie* this Court feels that injustice was caused to the fifth respondent.

7. In view of the above, I am not inclined to interfere with the promotion of the fifth respondent. However, I am inclined to issue a direction to the second respondent to conduct a detailed enquiry whether the sixth respondent's transfer order from Salem District to Vedachandur Union is in consonance with the G.O.(Ms.) No.239, dated 22.09.2007 and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSI)

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/ /2021

Sub Assistant Registrar(CS)



To

1.The Principal Secretary,
State of Tamil Nadu,
Department of Elementary Education,
Fort St. George,
Chennai -9.

2.The Director of Elementary Education,
Chennai -6.

3.The District Elementary Educational Officer,
Dindigul,
Dindigul District.

4.The Assistant Elementary Educational Officer,
O/o. The Assistant Elementary Educational Officer,
Vedachandur,
Dindigul District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-7455[F] dated 26/02/2021)

+1 CC to M/s.SPL GP (SR-7475[F] dated 26/02/2021)

+1 CC to M/s.T.PON RAMKUMAR, Advocate (SR-7642[F] dated 26/02/2021)

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GS (25.06.2021) 5P 8C