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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.21323 OF 2014

AND

M.P.NO.1 OF 2014

1. S.Chinnaiyan
2. K.Kolandaivelu
3. Mary Pramila
4. T.Rangasamy

... Petitioners

-Vs-

1. Government of Tamil Nadu,
Rep. by the Secretary to Government,
School Education Department,
Secretariat, Chennai - 600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The Joint Director of School
Education (Personnel),
College Road, Chennai - 600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent issued in Letter No.33529/SE1(1)/2012-3 dated 11.06.2013 and quash the same and issue a consequential direction to the respondents to give promotion to the petitioners to the post of District Educational Officer, notionally from 12.04.1995 when the petitioners' junior was promoted and to grant consequential monetary and pensionary benefits.

For Petitioners : Mr.R.Saseetharan

For Respondents : Mr.T.Chezhiyan,
Additional Government Pleader



ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

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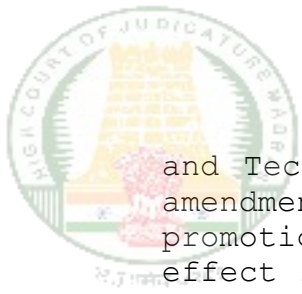
2. All the petitioners herein had retired as High School Head Masters in the years 1995/1996. In the present writ petition, they are challenging the order of the first respondent, rejecting their claim for notional promotion to the post of District Educational Officer from the date on which their immediate junior was promoted.

3. The brief fact of the case is that, on 16.05.1970, the teaching and non-teaching staff in the erstwhile District Board Schools were absorbed into Government Service and they constituted 'B' Wing. The staff in Government High School and School Inspectorate, who were appointed after 01.04.1970, constituted 'A' Wing. When a litigation arose between A & B wing personnel concerning seniority and promotion, the Hon'ble Supreme Court of India issued a direction for integration of A & B wing personnel and to redraw the seniority list. Accordingly, a revised combined list for both A & B wing High School Head Masters was issued. Subsequently, through G.O.Ms.No.78, School Education (A1) Department, dated 24.03.2010, the Government had ordered for granting notional promotion to the personnel in the combined A & B seniority list and ordered for arrears of pay to be paid only for the period they had acted as District Educational Officers and for consequential pensionary benefits, subject to certain conditions.

4. The petitioners herein predominantly claim notional promotion on par with their immediate junior, namely, R.Thangavelu, who was promoted on 12.04.1995 in the panel for the year 1994-1995.

5. The respondents have rejected the petitioners' claim predominantly on the ground that, when the panel for the year 1994-1995 was constituted, there was a condition that the promotee should not have crossed the age of 55 years and since the petitioners herein had already crossed the age of 55 years, they cannot claim promotion on par with their immediate junior. The other ground on which the petitioners' claim came to be rejected was that, for the year 1995-1996, the promotional panel was not drawn due to administrative reasons and therefore, they cannot claim notional promotion for that years.

6. Insofar as the first ground for rejection that the petitioners had crossed 55 years during the period 1994-1995 is concerned, the Government, in G.O.Ms.No.1, Education, Science



and Technology (A1) Department, dated 02.01.1996, had issued an amendment relaxing the age limit of 55 years, for the purpose of promotion to the post of District Educational Officer, with effect from 01.03.1995. Since the petitioners herein had crossed 55 years, prior to 01.03.1995, they may not be entitled to claim promotion for the year 1994-1995 and as such, I do not find any infirmity in this reason adopted by the first respondent in the impugned order. However, since the age restriction was relaxed from 01.03.1995, the petitioners herein would be entitled for promotion for the year 1995-1996.

7. The only reason given by the respondents for non-consideration of the petitioners notional promotion is that the panel was not drawn during that year and no promotions were given. To a specific ground raised by the petitioners that promotions were issued during the years 1994 to 1997, the respondents, in their counter affidavit, have stated that since the Government was of the view that there were large number of posts of District Educational Officers remaining unfilled, they had filed a miscellaneous application in M.A.No.4755 of 1996 in O.A.No.4864 of 1003, seeking for permission to fill up the post of District Educational Officers, through promotions. Accordingly, the Tribunal had also taken into consideration the difficulties faced by the Government, owing to non-filling of these posts and issued directions for filling up all the posts of District Educational Officers, as a temporary measure.

8. The counter affidavit states that in pursuance to the directions of the Tamil Nadu Administrative Tribunal, the Government, in G.O.Ms.No.1, dated 02.01.1997, had issued orders temporarily promoting the persons specified therein to the post of District Educational Officers under Rule 39(a)(i) of the General Rules for the Tamil Nadu State and Subordinate Service, with effect from the date of their taking charges.

9. It is not disputed that in these temporary promotions, the juniors of the petitioners were promoted. As stated earlier, the Government, in G.O.Ms.No.78, dated 24.03.2010, had ordered for granting notional promotion to the High School Head Masters for the post of District Educational Officers and had also facilitated for consequential pensionary benefits. Since the respondents herein have admitted that promotions have been made, after the year 1994-1995, and that the petitioners' juniors have also been promoted, this Court is of the view that the second reason cited in the impugned order that no panel was drawn for the year 1995-1996, is not correct and consequently, the petitioners would be entitled for notional promotion from 01.03.1995, which is the date on which the panel ought to have been drawn for the year 1995-1996.



10. In the light of the above findings and observations, the impugned order dated 11.06.2013 passed by the first respondent herein is quashed. Consequently, there shall be a direction to the first respondent to pass appropriate orders, granting notional promotions to all the petitioners herein, for the post of District Educational Officer, with effect from the date on which their immediate junior was promoted in 1995-1996 and accordingly, fix their pay scales for the purpose of revising their pensionary benefits. However, the petitioners would not be entitled for the arrears of salary from such date of promotion till the date of their retirements, since they had not served in the promotional posts. The first respondent shall pass such orders, atleast within a period of 6 weeks from the date of receipt of a copy of this order.

11. The Writ Petition stands allowed, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Secretary to Government,
School Education Department,
Secretariat, Chennai - 600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The Joint Director of School
Education (Personnel),
College Road, Chennai - 600 006.

+1cc to Mr.R.Saseetharan, Advocate, S.R.No.29175

W.P.No.21323 of 2014
and
M.P.No.1 of 2014

MG(CO)
RLP(02/06/2022)