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WP No.44567 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-11-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.44567 of 2016

And

WMP Nos.38375 and 38376 of 2016

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Petitioner

vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2.The Director of School Education,
DPI Campus,
College Road,
Chennai – 600 006.

3.The Joint Director of School Education
(Higher Secondary),
DPI Campus,
College Road,
Chennai – 600 006.

..

Respondents



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Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in Na.Ka.No.079472/W3/E2/2015 dated 01.11.2016 and to quash the same and consequently direct the first respondent to pass appropriate orders for providing Ratio 2:1 for appointment to the post of District Inspector of Physical Education between promotee and direct recruits to the post of Physical Director Grade-I, in consideration of cadre strength.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Ms.S.Mythreye Chandru,
Special Government Pleader.

O R D E R

The relief sought for in the present writ petition is to quash the order dated 01.11.2016 passed by the second respondent, declining the request of the writ petitioner to provide ratio of 2:1 for appointment to the post of District Inspector of Physical Education between the promotee and direct recruits to the post of Physical Director Grade-I.



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2. The petitioner was initially appointed as Physical Education Teacher in the School Education Department. He was promoted to the post of Physical Director Grade-II on 09.07.2009 and thereafter holding the post of Physical Director Grade-I. The petitioner was allowed to retire from service during the pendency of the present writ petition.

3. The grievance of the writ petitioner is that the ratio of 2:1 is to be provided for the purpose of appointment to the post of District Inspector of Physical Education between promotee and direct recruits from the post of Physical Director Grade-I. Since there is no ratio was fixed, the petitioner lost his opportunity for promotion to the post of District Inspector of Physical Education.

4. In respect of the grievance of the writ petitioner, the second respondent has stated in paragraph-7 of its counter, which reads as under:-

“7. It is also respectfully submitted that in obedience to the orders of this Hon'ble Court



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made in WP No.21201 of 2015 dated 15.07.2015, the petitioner's representation dated 16.03.2015 was carefully considered by the first respondent and necessary orders have been issued by the first respondent [who is the Secretary to Government, School Education Department] in letter No.37829/Ni.Va.1(1)/2015-10 dated 21.02.2017 stating that "there is no provision in the Tamil Nadu School Educational Subordinate Service Rules for appointment of the persons to the post of District Inspector of Physical Education, who were appointed as Physical Education Teacher and subsequently promoted as Physical Director Grade-II and thereafter Physical Director Grade-I and serving as such. Further, in G.O.Ms.No.159, School Education Department, dated 10.07.2009, no ratio has been fixed between the direct recruits and the promotes from Physical Director Grade-II to Grade-I. Therefore, there is no feasibility for accepting the claim of the petitioner in his representation dated 16.03.2015, for fixing the ratio of 2:1 between the persons appointed as Physical Education Teachers and promoted as Physical Director Grade-I and the persons



appointed directly as Physical Director Grade-I and hence, the claim of the petitioner was rejected”.

5. Promotion per se cannot be claimed as a right. The petitioner was appointed as Physical Education Teacher and promoted to the post of Physical Director Grade-II and thereafter as Physical Director Grade-I. Therefore, the petitioner was not stagnated in his services. Further promotion to the post of District Inspector of Physical Education is to be granted in accordance with the Rules in force.

6. Fixing the ratio between the direct recruits through promotee is the policy decision of the Government depending upon the various factors involved in the matter of direct recruitments and promotions. The Department has to consider various factors and take a decision in this regard. However, the petitioner as an employee working in the cadre of Physical Director Grade-I cannot seek a direction to fix the ratio for promotee and direct recruitments. Fixing of ratio, being the policy decision of the Government, the Court cannot issue any directions unless the existing Rules are challenged or



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found to be unconstitutional or illegal.

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7. In the absence of any such materials on record, the relief, as such, sought for in the present writ petition cannot be granted. Further the petitioner retired from service during the pendency of the present writ petition. Thus, there is no scope for granting further promotion to the writ petitioner.

8. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

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Index : Yes/No.

Internet : Yes/No.

Speaking Order/Non-Speaking Order.

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To

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S.M.SUBRAMANIAM, J.

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