



W.P.No.18351 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.07.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.18351 of 2014

S.Poongundran

... Petitioner

-Vs-

1. The State of Tamil Nadu,
Rep. by its Secretary,
Education Department, Chennai - 9.

2. The Director of School Education,
College Road, Chennai -6.

3. The Director of Elementary Education,
College Road, Chennai -6.

4. The Chief Education Officer,
Cuddalore.

5. The District Education Officer,
Virudachalam, Cuddalore District.

6. The District Elementary Education Officer,
Cuddalore.

7. The Assistant Elementary Education Officer,
Keerapalayam, Cuddalore District.

8. The Secretary,
Nataraja High School,
Sozhatharam, Cuddalore District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order passed by the 2nd respondent in Na.Ka.No. 88721/D2/E1/2013 dated 29.01.2014 and quash the same and direct the respondents to approve the appointment of the petitioner in the Post of Headmaster or B.T. Assistant in the 8th respondent High School w.e.f. 01.03.1998 with all consequential benefits.

For Petitioner : Mr.S.N.Ravichandran
for Mr.K.Raja

For Respondents : Mr.S.Prabhakarn (for R1 to R7)
Government Advocate
Mr.K.Arumugham (For R8)

ORDER

The order of rejection dated 29.01.2014, rejecting the claim of the writ petitioner for upgradation of post and approve the appointment of the petitioner in the post of Head Master or BT Assistant in the 8th Respondent High School, with effect from 01.03.1998, is under challenge in the present writ petition.

2. The writ petitioner was appointed as a Secondary Grade Teacher on 22.07.1991, in the 8th respondent school. The petitioner studied B.A.



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in the year 1983 and B.Ed in the year 1985. His appointment was not approved and he filed W.P.No.13667 of 1991, for approval of his appointment and the said writ petition was allowed and thereafter, his appointment was approved from the date of his initial appointment. The 8th respondent school was upgraded as high school in the year 1996-97 by the proceedings of the Joint Director of School Education dated 12.01.1998. Consequently, the High School Sections were bifurcated and are functioning separately. The then middle school Headmaster was only a Secondary Grade qualified and therefore, he was transferred to the primary school and there is no Headmaster for the High School. In this context, the petitioner set out a claim by stating that he is fully qualified for appointment to the post of B.T.Assistant and his case is to be considered for upgradation of post in the said school, so as to accommodate him.

3. The learned counsel appearing on behalf of the writ petitioner reiterated that several recommendations were made by the District Educational Officers and such recommendations were forwarded to the Directorate also. In spite of the fact that the School is eligible for such upgradation and the petitioner was also qualified during the relevant



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point of time for appointment as B.T.Assistant, the respondents have failed to upgrade the post as B.T.Assistant / Middle School Head master and therefore, the petitioner is deprived of his appointment as B.T.Assistant / Middle School Head master. The petitioner is now performing the duties of the Headmaster and receiving the pay applicable to the post of Secondary Grade Teacher. This being the factum, the post of the writ petitioner i.e. Secondary Grade Teacher is to be upgraded as B.T.Assistant / Middle School Headmaster with all consequential benefits.

4. The learned counsel for the petitioner further made a submission that the authorities have failed to consider the issues during the relevant point of time. Though the school was upgraded during the year 1996-97, and the high school sections started functioning separately, the post of the Secondary Grade Teacher ought to have been upgraded and the recommendations were made in this regard, but no final order has been passed, upgrading the post which resulted in denial of appointment to the writ petitioner.



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5. The learned Government Advocate appearing on behalf of the respondents objected the said contentions by stating that no doubt, the school was upgraded through the proceedings of the Joint Director of School Education dated 12.01.1998. Under the management of the 8th respondent, no other schools are functioning. Therefore, the post of Middle School Headmaster was unable to be transferred to any other school. During the relevant point of time, the incumbent Middle School Headmaster was not possessing the requisite qualification of B.Ed and therefore, the said post was converted as Elementary School Headmaster. Under those circumstances, the recommendations were not considered as the school was not eligible for any such upgradation.

6. The learned Government Advocate made a submission that as of now, the school is functioning with standards 1 to 5 under the control of the Director of Elementary Education and 84 students are studying in primary sections. In respect of the primary section, one Primary School Headmaster and three Secondary Grade Teacher posts are sanctioned. As far as the high school is concerned, standards 6 to 8 alone is aided by the Government and 70 students are studying in Standard 6 to 8.



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WEB COPY 7. Regarding standards 9 and 10 (SSLC), it is self financed and not aided by the Government. 41 students are studying both in standards 9 and 10 in the 8th respondent school and therefore, the sanctioned strength as of now is 3 Secondary Grade Teachers and one pre-vocational teacher. In view of the fact that the standards 9 and 10 in the school is self financed and not aided by the Government, the post of BT Assistant was not sanctioned and therefore, the case of the writ petitioner was rejected by the Directorate of School Education in proceedings dated 29.01.2014.

8. Upgradation can never be claimed as a matter of right by the employees. Upgradation of post is the policy decision to be taken by the competent authorities of the department. The teachers are eligible to consider their names for appointment or promotion only if the posts are sanctioned, but not otherwise. A teacher who is working as a Secondary Grade Teacher has no right to claim that a particular post is to be upgraded as B.T.Assistant / Middle School Headmaster, in view of the fact that he is fully qualified for the post.



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9. Possession of an educational qualification would not confer any right to claim such upgradation. Only if administrative decision is taken by the competent authorities and if the posts are upgraded then alone the case of the writ petitioner has to be considered. The said observations are made by the Joint Director, Department of the School Education even in the impugned order.

10. Thus, in the present case, the petitioner claims that the upgradation is to be done with effect from 01.03.1998. Such a retrospective upgradation with monetary effect cannot be granted in view of the fact that even now, the standards 9 and 10 in the said school has not been aided by the Government and it is functioning only under self financed scheme. This being the factum, in the event of sanctioning of any post of B.T.Assistant or Middle School Headmaster, the case of the petitioner is to be considered for his appointment or promotion in accordance with the rules in force. However, the Court cannot issue any direction to upgrade the post with retrospective effect for the purpose of accommodating the writ petitioner for the year 1998. This being the factum established, the petitioner is not entitled for the relief sought for.



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11. The learned counsel for the petitioner relied on the judgment of the division bench in the case of *V.Pauldurai Vs. The Director of Elementary Education, Chennai and 2 others* dated **09.02.2017** made in *W.A.No.1969 of 2010*.

12. Reading of the facts and circumstances of the said case would not have any application with reference to the facts and circumstances of the case on hand. The petitioner seeks retrospective upgradation of the post of B.T.Assistant or Middle School Headmaster. Upgradation being a policy decision to be taken by the Government and sanctioning of posts are to be done in accordance with the student strength prevailing in the school, the said judgment is of no avail to the writ petitioner.

13. With these observations, the Writ Petition stands dismissed.

No Costs.

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Index: Yes/No
Speaking/Non-speaking order.
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S.M.SUBRAMANIAM, J.

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