

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.06.2022
CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Writ Petition No.18626 of 2014
and
M.P.No.1 of 2014

M.Sivasubramanian

... Petitioner

Vs.

- 1.The Government of Tamil Nadu
represented by
Secretary to Government,
School Education Department,
Fort St.George, Chennai - 600 009.
- 2.The Director of Elementary Education,
College Road, Chennai - 600 006.
- 3.The District Elementary Educational Officer,
Nagapattinam District,
Nagapattinam.
- 4.The Additional Assistant Elementary
Educational Officer,
Thalaignayiru Panchayat Union,
Nagapattinam District.

5.S.Sumathi

... 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 third respondent relating to his proceedings issued in Na.Ka.No.2622/A2/A4/2012 dated 28.06.2012 and quash the same and issue a consequential direction to the respondents 1 to 4 to promote the petitioner as B.T. Assistant in Tamil, Panchayat Union Middle School, Neermulai, Thalaignayiru Panchayat Union, Nagapattinam District, by including the name of the petitioner in the panel as on 01.01.2012 for the post of B.T.Assistant in Tamil as per seniority with service and monetary benefits.

For Petitioner : Mr.R.Saseetharan

For Respondents: Mrs.R.L.Karthika
Government Pleader [R1 to R4]
No appearance [R5]

O R D E R

This writ petition has been filed challenging the order dated 28.06.2012 promoting the fifth respondent Smt.S.Sumathi as B.T.Assistant (Tamil).

2. The petitioner states that he was appointed as Secondary Grade Teacher on 18.11.1998 in Panchayat Union Middle School. He was transferred as Secondary Grade Teacher to the Thalaigayiru Panchayat Union, Nagapattinam District. He passed 3 year B.A. (Tamil) degree in May 1992, B.Ed. in May 1994 and M.A.(Tamil) in December 1998. Thus, the petitioner states that he is fully qualified for promotion to the posts of B.T.Assistant (Tamil) and B.Ed. Middle School Headmaster. The petitioner was promoted as Elementary School Headmaster on 07.10.2014. His name was included in the panel for promotion to the post of Tamil Pandit for the year 1991. No doubt, the petitioner's name was included in the panel for promotion to the post of Middle School Headmaster. However, the petitioner was not promoted during the relevant point of time as he has not studied +2 course i.e. higher secondary course in a regular pattern. Therefore, based on the Government orders, the petitioner was not considered for further promotion. Many such seniors were denied promotion on the ground that they had not undergone regular pattern of education i.e. 10+2+3. Subsequently, one Smt.R.Sudha got an order from the High Court in W.P.No.24279/2013 and in order to accommodate the said R.Sudha, the petitioner was reverted from the post of B.Ed. Middle School Headmaster.

3. Learned counsel appearing on behalf of the petitioner mainly contended that while reverting the petitioner from the post of B.Ed. Middle School Headmaster, another junior to the petitioner/fifth respondent, who was working as B.T.Assistant (Tamil), must be reverted in order to accommodate the petitioner. In other words, it is contended that when a specific principle of accommodating senior is followed by the department, the same principle is to be adopted to the petitioner and he must be accommodated in the promotional post by reverting his junior/fifth respondent.

4. The facts remain that during the relevant point of time, when the name of petitioner was considered for the post of B.Ed. Middle School Headmaster, he was not possessed requisite qualification as per the rules. The petitioner had not underwent the regular pattern of education i.e. 10+2+ 3 and therefore, the name of the petitioner was not considered for promotion. Many such seniors were denied promotion. Therefore, the anomaly in grant of promotion aroused. One R.Sudha approached the High Court and based on the orders passed in W.P.No.24279/2013, the said R.Sudha was accommodated in the promotional post and the

petitioner was reverted. However, the said principle was not applied in the case of the petitioner for the purpose of reverting the fifth respondent in accommodating the petitioner.

5. Learned Government Advocate appearing on behalf of respondents 1 to 4 states that the petitioner, during the relevant point of time, was not qualified and accordingly, he was not promoted. The petitioner already attained the age of superannuation and allowed to retire from service on 31.03.2019 itself. During the relevant point of time, when the petitioner reached superannuation, there is no vacant post in the cadre of Middle School Headmaster and therefore, the case of the petitioner was not considered.

6. This Court is of the considered opinion that now, after this length of time, more so, after three years from the date of retirement of the petitioner, the question of reverting the fifth respondent and considering the case of the petitioner for promotion would not arise at all. Furthermore, the facts, in this regard, were also not verified by the authorities during the relevant point of time. Under these circumstances, the petitioner is not entitled to the relief as such sought for in the present writ petition.

Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gm

To

1.The Secretary to Government,Government of Tamil Nadu,
School Education Department,
Fort St.George, Chennai - 600 009.

2.The Director of Elementary Education,
College Road, Chennai - 600 006.

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

4.The Additional Assistant Elementary
Educational Officer,
Thalaignayiru Panchayat Union,Nagapattinam District.

+1 cc to State Government Pleader Sr.NO. 40100

Writ Petition No.18626 of 2014

PM(CO)

A.SK(11/07/2022)