

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.18628 OF 2014

M.Gandhi

... Petitioner

Vs.

1. The Director of Adi Dravidar Welfare,
Chennai - 600 005.
2. The District Adi Dravidar and Tribal Welfare
Officer, Nagapattinam, Nagapattinam District.
3. M.Kanimozhi,
BT Assistant,
Govt.Adi Dravidar Welfare High School,
Karaiedu, Nagapattinam District.

... Respondents

PRAYER:

This Writ Petition is filed under Article 226 of the Constitution of India praying for an issuance of a Writ of Mandamus directing the respondents 1 and 2 to promote the petitioner as BT Assistant with effect from 16.09.2006 on par with junior M.Kanimozhi and grant him all consequential benefits.

For Petitioner : Mr.P.Manoj Kumar

For Respondent : Mr.S.Prabhakaran
Nos.1&2 Government Advocate

For Respondent : No appearance
No.3

O R D E R

The relief sought for by the petitioner is to direct the respondents 1 and 2 to promote the petitioner as BT Assistant

with effect from 16.09.2006 on par with his junior M.Kanimozhi and grant him all consequential benefits.

2.The petitioner states that he is working as BT Assistant in Government Adi Dravidar Welfare High School, Azhinjamangalam, Nagapattinam. The grievance of the writ petitioner is that his junior one M.Kanimozhi was promoted to the post of BT Assistant overlooking the seniority of the writ petitioner. Admittedly, the writ petitioner was facing department disciplinary proceedings during the relevant point of time and he was placed under suspension on 03.07.2006. A charge memo was issued and an enquiry officer was appointed. The competent authority passed a final order on 26.06.2008, exonerating the petitioner from the allegations.

3.The learned counsel for the petitioner made a submission that once the petitioner is exonerated from the charges, he is eligible for promotion to the higher post of BT Assistant on par with the junior. The petitioner made a representation and the said representation was not considered.

4.The learned Government Advocate appearing on behalf of the respondents 1 & 2 raised a preliminary objections that the writ petition is liable to be rejected on the ground of laches. Even according to the petitioner, he was exonerated from the departmental disciplinary proceedings in the year 2008 and the representation was sent in the year 2013, after a lapse of about 5 years from the date of passing of the order by the competent authority and thereafter, in the year 2014, he filed the writ petition.

5.The learned counsel for the petitioner made a submission that the petitioner has sent a representation. Such a blank submission cannot be taken into consideration for granting the relief of retrospective promotion on par with the junior. However, the petitioner claims that there is no other departmental disciplinary proceedings pending against him during the relevant point of time. Further, the learned counsel for the petitioner made a submission that the petitioner is not claiming any monetary benefits or otherwise with reference to the notional promotion, if it is considered by the respondents.

6.In view of the said undertaking, the respondents 1 and 2 are directed to consider the representation submitted by the writ petitioner on 23.09.2013 and pass appropriate orders on

merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order. Accordingly, the writ petition stands disposed of. No Costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sms/sli

To

1. The Director of Adi Dravidar Welfare,
Chennai - 600 005.
2. The District Adi Dravidar and Tribal Welfare
Officer, Nagapattinam, Nagapattinam District.

+1cc to Mr.P.Rajendran, Advocate, S.R.No.37352
+1cc to the Government Pleader, S.R.No.37429

W.P.No.18628 of 2014

GPL(CO)
PM/11/07/2022