



WEB COPY

W.P.No.32735 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32735 of 2019

Mrs.R.Muthamil

... Petitioner

Vs.

1.Government of Tamil Nadu
rep. by Principal Secretary to Government
School Education Department
Secretariat
Chennai – 600 004.

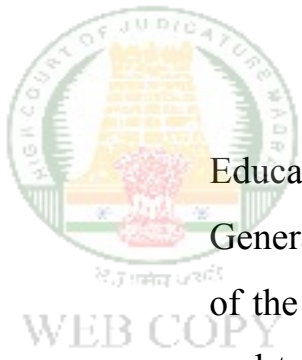
2.The Director of School Education
College Road
Chennai 600 006.

3.The Chief Educational Officer
Salem.

4.The District Educational Officer
Salem. (Rural)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Second respondent relating to Pro.Na.Ka.No.034847/A3/E1/2013 dated 14.12.2018 to quash the same and to issue consequential directions to the respondents to fix due seniority to the petitioner in the cadre of Typist / Junior Assistant strictly in accordance with G.O.2(D).No.38, School



Education (R2) Department, dated 23.07.2009 read with Rule 35 of the General Rules for Tamil Nadu State and Subordinate Service, Section 40(2) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and to grant her promotion to the higher posts with effect from the date of promotion of her immediate junior with all consequential service and monetary benefits including revised retirement and pensionary benefits.

For Petitioner : Mr.M.Ravi

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

The relief sought for in the present writ petition is to call for the records of the 2nd respondent relating to Pro.Na.Ka.No.034847/A3/E1/2013 dated 14.12.2018 to quash the same and to issue consequential directions to the respondents to fix due seniority to the petitioner in the cadre of Typist / Junior Assistant strictly in accordance with G.O.2(D).No.38, School Education (R2) Department, dated 23.07.2009 read with Rule 35 of the General Rules for Tamil Nadu State and Subordinate Services Act, Section 40(2) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and to grant her promotion to the higher posts with effect from the date of promotion of her immediate junior with all consequential service



and monetary benefits including revised retirement and pensionary benefits.

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2. The petitioner was initially appointed as Typist on 15.06.1981. His services were regularised with effect from 25.06.1984. He was promoted as Assistant on 20.4.1994 and further the post was upgraded as Superintendent with effect from 05.02.2004. When the post was upgraded and the name of the petitioner was empanelled and he was about to be promoted to the post of Superintendent, the petitioner relinquished his right of promotion temporarily for 3 years. On expiry of the period of relinquishment, he was again promoted as upgraded Superintendent and joined 23.12.2008 and retired from service on 31.05.2017 on attaining the age of Superannuation.

3. The claim of the writ petitioner is to fix seniority and to grant retrospective promotion in the higher post. The claim in this regard set out by the petitioner was rejected by the respondents in proceedings dated 14.12.2008.

4. The reasons given in the impugned order, not considering the case of the petitioner is that she was promoted to the post of Assistant and when



her name was empanelled for the post of Superintendent, she had relinquished her right of promotion and after expiry of 3 years of period her case was reconsidered accordingly, she was promoted to the post of Superintendent and retired from service. Since the petitioner had relinquished her promotion, she is not entitled for retrospective promotion on par with other juniors.

5. Accordingly, the Writ Petition stands dismissed. No costs.

02.12.2022

Jeni
Index : Yes
Speaking order

To

1.The Principal Secretary to Government
Government of Tamil Nadu
School Education Department
Secretariat
Chennai – 600 004.

2.The Director of School Education
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3. The Chief Educational Officer
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S.M.SUBRAMANIAM, J.

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