



WEB COPY



W.P.No.25948 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25948 of 2017
and W.M.P.Nos.27508 & 27509 of 2017

J.Swaminathan

...Petitioner

Vs.

- 1.The Director of Elementary Education,
DPI Campus,
College Road,
Chennai – 600 006.
- 2.The Joint Director of Elementary Education (Aided),
Directorate of Elementary Education,
DPI Campus,
College Road,
Chennai – 600 006.
- 3.The District Elementary Educational Officer,
Thiruvarur District,
Thiruvarur.
- 4.The Assistant Elementary Educational Officer,
Nannilam Taluk,
Thiruvarur District.



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5. Tmt.P.Bharathi,
Headmistress,
Aided Elementary School,
Vazhkkai,
Nannilam Taluk,
Thiruvavarur District.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned order of promotion issued by the 5th respondent dated 31.01.2016 (Signed on 08.02.2016) and the subsequent order of approval of promotion issued by 3rd respondent in Na.Ka.No. 486/ A2/ 2016 dated 27.02.2016 and to quash the same and consequently direct the Respondents to promote the petitioner to the post of Headmaster of Aided Elementary School, Vazhkkai, Nannilam Range, Thiruvavarur District retrospectively with consequential and other attendant benefits within a time frame to be fixed by this Court.

For Petitioner : Mr.J.Jayamalan
for Mr.G.Sankaran

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader
for R1 to R4

Mrs.P.Srividhya for R5



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ORDER

The promotion of the 5th respondent as Headmaster of the Aided Elementary School, Vazhkkai, Nannilam Range, Thiruvarur District is under Challenge in the present writ petition.

2.The petitioner states that the 5th respondent School is a Government Aided Elementary School governed by the provisions of the Tamil Nadu Recognized Private School Regulation Act and the Rules. The petitioner was appointed as a Secondary Grade Teacher in the 5th respondent School on 25.09.1989 and his appointment was duly approved by the competent authorities of the Education Department.

3.The 5th respondent Smt.P.Bharathi was appointed as a Secondary Grade Teacher on 02.09.1992 and therefore, the 5th respondent is junior to the writ petitioner. However, the 5th respondent is the relative of the Secretary of the 5th respondent Aided School and therefore, she was appointed as Headmistress in the vacancy which arose on 12.10.2007, due to voluntary retirement of the previous incumbent of Smt.Lalitha.



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4.The learned Special Government Pleader relying on the counter affidavit filed by District Elementary Educational Officer, Thiruvarur made a submission that the writ petitioner was a senior and appointed even before the appointment of the 5th respondent as a Secondary Grade Teacher. Though the writ petitioner was senior to the 5th respondent in the post of Secondary Grade Teacher, the case of the writ petitioner was not considered for promotion to the post of Headmistress on account of the fact that he was facing departmental disciplinary proceedings and suffered punishment. Thus, the name of the writ petitioner was overlooked and the 5th respondent was found to be qualified and promoted as Headmistress.

5.The learned counsel for the petitioner made a submission that challenging the order of punishment, he preferred an appeal and the appeal was partly allowed and the punishment was modified and the petitioner preferred further appeal also and thereafter, filed the writ petition before this Court, challenging the order of punishment. However, the fact remains that the petitioner was not exonerated fully from the departmental disciplinary proceedings nor the punishment was set aside. Thus, the petitioner is not eligible for promotion to the post of Headmistress during



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the relevant point of time, therefore, the 5th respondent was considered and promoted to the post of Headmistress. If at all the petitioner was fully exonerated and the punishment imposed against him was set aside thereafter, he is at liberty to approach the competent authorities for appropriate remedy.

6. With this liberty, this writ petition stands disposed of. No Costs.
Consequently, connected miscellaneous petitions are closed.

14.10.2022

Index : Yes
Internet : Yes
Speaking order : Yes
SSR

To

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- 3.The District Elementary Educational Officer,
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