



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)Nos.1525 to 1533 of 2022

and

WMP(MD)Nos.1335, 1336, 1337, 1338, 1340,
1341, 1342, 1343 and 1344 of 2022

R.Padmavathy ... Petitioner in WP(MD). 1525/ 2022

Vijayalakshmi S ... Petitioner(s) in WP(MD). 1526/ 2022

1. S.Sumathi ... Petitioner(s) in WP(MD). 1527/ 2022

1. T.Ramaprabha ... Petitioner(s) in WP(MD). 1528/ 2022

1. Rajeswari .M ... Petitioner(s) in WP(MD). 1529/ 2022

1. Suresh.K.P.O ... Petitioner(s) in WP(MD). 1530/ 2022

1. M.Thennaleeswaran ... Petitioner(s) in WP(MD). 1531/ 2022

1. Venkatachalapathi .S.R ... Petitioner(s) in WP(MD). 1532/ 2022

1. Sankaralingam. P ... Petitioner(s) in WP(MD). 1533/ 2022

Vs.

1.The State Rep. by its
Secretary to Government,
School Education Department,
Secretariat,
Chennai.

2.The Commissioner,
School Education Department,
College Road,
Chennai

<https://hcservices.ecourts.gov.in/hcservices/>



3.The Joint Director,
School Education (Higher Secondary),
College Road,
Chennai

4.The Chief Educational Officer,
Madurai.

5.The Headmaster,
Government Girls Higher Secondary School,
Thirumangalam,
Madurai

... Respondents in WP(MD). 1525/ 2022

1. The State Rep by Its Secretary to Government,
School Education Department,
Secretariat, Chennai.

2. The Commissioner School Education Department,
College Road, Chennai

3. The Joint Director
School Education (Higher Secondary) College Road,
Chennai.

4. The Chief Educational Officer Virudhunagar

5. The Head Master
S.S.Girls Government Higher Secondary School,
Rajapalayam, Virudhunagar District

... Respondent(s) in WP(MD). 1526/ 2022

1. The State Rep by Its Secretary to Government,
School Education Department,
Secretariat, Chennai.

2. The Commissioner School Education Department,
College Road, Chennai

3. The Joint Director School Education
(Higher Secondary) College Road, Chennai.

4. The Chief Educational Officer
Trichy

5. The Head Master
Government Higher Secondary School,
Poovalur, Trichy

... Respondent(s) in WP(MD). 1527/ 2022



1. The State Rep by Its Secretary to Government,
School Education Department, Secretariat, Chennai.
2. The Commissioner School Education Department,
College Road, Chennai
3. The Joint Director
School Education (Higher Secondary) College Road, Chennai.
4. The Chief Educational Officer
Madurai
5. The Head Master
Government Higher Secondary School, Parapathi, Madurai.

... Respondent(s) in WP(MD). 1528/ 2022

1. The State Rep by Its Secretary to Government,
School Education Department,
Secretariat, Chennai.
2. The Commissioner School Education Department,
College Road, Chennai
3. The Joint Director School Education (Higher Secondary)
College Road, Chennai.
4. The Chief Educational Officer
Virudhunagar.
5. The Head Master
Government Higher Secondary School,
Pappainaickenpatti, Virudhunagar District

... Respondent(s) in WP(MD). 1529/ 2022

1. The State Rep by Its Secretary to Government,
School Education Department,
Secretariat, Chennai.
2. The Commissioner School Education Department,
College Road, Chennai
3. The Joint Director School Education (Higher Secondary)
College Road, Chennai.
4. The Chief Educational Officer
Madurai



5. The Head Master
Government Higher Secondary School For Girls,
Peraliyur, Madurai District

... Respondent(s) in WP(MD). 1530/ 2022

WEB COPY

1. The State Rep by Its Secretary to Government,
School Education Department,
Secretariat, Chennai.
2. The Commissioner School Education Department,
College Road, Chennai
3. The Joint Director School Education (Higher Secondary) College
Road, Chennai.
4. The Chief Educational Officer Trichy
5. The Head Master
Government Higher Secondary School,
Arasankudi, Trichy.

... Respondent(s) in WP(MD). 1531/ 2022

1. The State Rep by Its Secretary to Government,
School Education Department,
Secretariat, Chennai.
2. The Commissioner School Education Department,
College Road, Chennai
3. The Joint Director
School Education (Higher Secondary) College Road,
Chennai.
4. The Chief Educational Officer Madurai
5. The Head Master
Government Model Higher Secondary School,
T.Kallupatti, Madurai.

... Respondent(s) in WP(MD). 1532/ 2022

1. The State Rep by Its Secretary to Government,
School Education Department,
Secretariat, Chennai.
2. The Commissioner School Education Department,
College Road, Chennai



3. The Joint Director
School Education (Higher Secondary) College Road,
Chennai.

4. The Chief Educational Officer
Madurai

5. The Head Master Government Higher Secondary School,
Melakottai, Madurai.

... Respondent(s) in WP(MD). 1533/ 2022

Prayer in WP(MD). 1525/ 2022 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to prepare the panel as on 01.01.2020, 01.01.2021 and 01.01.2022 for the academic year 2020-2021, 2021-2022 and 2022-2023 and to include the petitioner's name in the panel for promotion to the post of Higher Secondary School Headmaster as per seniority and permit the petitioner to participate in the counseling to be conducted on 28.01.2022 or subsequent dates so as to enable the petitioner to get promotion to the post of Higher Secondary School Headmaster.

Prayer in WP(MD). 1526/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-10. To issue a Writ of Mandamus directing the respondents to prepare the panel as on 01.01.2020, 01.01.2021 and 01.01.2022 for the academic year 2020-2021, 2021-2022 and 2022-2023 and to include the petitioners name in the panel for promotion to the post of Higher Secondary School Head Master as per seniority and permit the petitioner to participate in the counseling to be conducted by the respondents on 28.01.2022 or subsequent dates so as to enable the petitioner to get permission to the post of Higher Secondary School Head Master and pass such further or other orders as may deem fit and thus render justice.

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Writ Petition is filed under Article 226 of the
<https://hcservices.ecourts.gov.in/hcservices/>



Constitution of India, praying this Court S-10.To issue a Writ of Mandamus directing the respondents to prepare the panel as on 01.01.2020, 01.01.2021 and 01.01.2022 for the academic year 2020-2021, 2021-2022 and 2022-2023 and to include the petitioners name in the panel for promotion to the post of Higher Secondary School Head Master as per seniority and permit the petitioner to participate in the counseling to be conducted by the respondents on 28.01.2022 or subsequent dates so as to enable the petitioner to get permission to the post of Higher Secondary School Head Master and pass such further or other orders as may deem fit and thus render justice.

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**Prayer in WP(MD) . 1532/ 2022 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-10. To issue a Writ of Mandamus directing the respondents to prepare the panel as on 01.01.2020, 01.01.2021 and 01.01.2022 for the academic year 2020-2021, 2021-2022 and 2022-2023 and to include the petitioners name in the panel for promotion to the post of Higher Secondary School Head Master as per seniority and permit the petitioner to participate in the counseling to be conducted by the respondents on 28.01.2022 or subsequent dates so as to enable the petitioner to get permission to the post of Higher Secondary School Head Master and pass such further or other orders as may deem fit and thus render justice.

Prayer in WP(MD) . 1533/ 2022 :

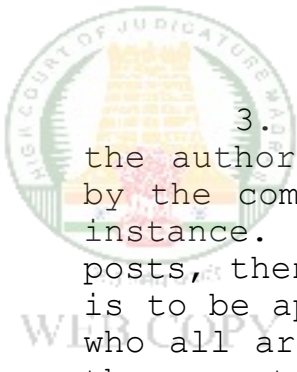
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For Petitioners	:Mr.V.Panneer Selvam
(in all W.Ps.)	
For R1 to R3	:Mr.G.V.Vairam Santhosh,
(in all WPs.)	Additional Government Pleader

COMMON ORDER

The relief sought for in the present writ petitions is to direct the respondents to prepare the panel as on 01.01.2020, 01.01.2021 and 01.01.2022 for the academic year 2020-2021, 2021-2022 and 2022-2023 and include the name of the petitioners in the panel for promotion to the post of Higher Secondary School Headmasters, as per their seniority and permit the petitioners to participate in the counselling to be conducted on 28.01.2022.

2. The learned counsel appearing for the petitioners made a submission that without preparing a panel for the earlier years, the panel is prepared by the authorities for the current year and therefore, a direction is to be issued to prepare panel with retrospective effect from the year 2020 onwards.



3. The principles to be followed for preparation of panel by the authorities are that an administrative decision is to be taken by the competent authorities to fill up the vacancies at the first instance. If an administrative decision is taken to fill up the posts, then, a list of eligible persons to be prepared and the panel is to be approved and the panel of eligible persons to be published, who all are fit for promotions to the higher category. Thereafter, the promotion is to be granted.

4. The right of an employee for promotion is also to be considered by this Court. Promotion per se would not confer any right on the employee. However, consideration for promotion is a Fundamental Right of an employee. Thus, promotion cannot be sought for as a matter of right. All promotions are to be made strictly in accordance with the Rules and by following the procedures contemplated. Therefore, right of an employee for promotion would arise only, if a decision is taken to fill up the posts by the competent authorities and the panel of eligible persons, who all are fit for promotion to the higher posts is published.

5. The grievances of the writ petitioners in the present writ petitions are that the authorities have not prepared the panel for the year 2020 and 2021, contrarily, they have prepared the panel for the year 2022. Certain guidelines are issued by the Government for preparation of panel. If at all an administrative decision is taken not to fill up the posts or a decision is taken to fill up the posts in either of the case, the competent authority has to record in the file that no panel is prepared or if the panel is prepared, then, it is to be published. Therefore, in the event of taking a decision not to prepare a panel, the said decision is to be recorded.

6. The employees cannot have right to seek to prepare a panel, as the preparation of panel would arise only if an administrative decision is taken by the authorities to fill up the posts as per the rules. Taking an administrative decision is prerogative of the competent authority and would not fall within the right of the employee. Thus, only if a decision is taken to fill up the vacancy and the process for preparation of panel commence and if the name of eligible persons are not included or if any other grievances are there for the employees then alone the cause would arise, but not otherwise. Thus, non-preparation of panel would not be a grievance for an employee nor such non-preparation would confer any right only when decision is taken to prepare the panel, the consideration becomes right of an employee. Therefore, in the event of taking decision not to fill up the posts, the authorities are well within the power to record "Nil Panel" in the file and pass on the year without preparing the panel or without granting any



promotion, as promotion *per se* cannot be claimed, as a matter of right. The preparation of year-wise panel is not mandatory. Any year can be passed on by the competent authority, without preparation of any panel. However, an administrative procedures required that the competent authority shall record 'Nill Panel' for a particular year, in the event of not preparing any panel. This apart, the employee has no right to seek a direction from the Court for preparation of panel.

7. The above principles are the established principles for the purpose of considering an employee for promotion and for preparation of panel and the right of an employee to claim promotion to the higher posts. This being the principles to be followed in cases of preparation of panel and promotion, this Court cannot direct the authorities to prepare a panel for the year 2020-2021, as pointed out by the petitioners. The panel for the year 2022 has been prepared and if the petitioners are otherwise qualified and in the order of seniority, the authorities have to consider the names of all the eligible persons, including the petitioners, for preparation of panel for promotion to the higher posts.

8. With these observations, the writ petitions stand disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MPK

To

1.The Secretary to Government,
School Education Department,
Secretariat,
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School Education Department,
College Road,
Chennai



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Madurai

11. The Head Master
Government Higher Secondary School, Parapathi, Madurai.

12. The Head Master
Government Higher Secondary School,
Pappainaickenpatti, Virudhunagar District

13. The Head Master
Government Higher Secondary School For Girls,
Peraiyur, Madurai District



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Government Higher Secondary School,
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Melakottai, Madurai.

+1 CC to M/s.SPL GP (SR-9757[F] dated 03/03/2022)

W.P. (MD) Nos.1525 to 1533 of 2022

02.03.2022

CK (CO)
KB (15.03.2022) 11P 18C