



W.P(MD)No.3159 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3159 of 2021
and
W.M.P(MD)Nos.2506 & 2507 of 2021

V.B.Amutha

... Petitioner

Vs

- 1.The Director of Elementary Education,
DPI Campus,
Chennai – 6.
- 2.The Joint Director of Elementary Education,
DPI Campus,
Chennai – 6.
- 3.The Chief Educational Officer,
Office of the Chief Educational Officer,
Theni District.
- 4.The District Educational Officer,
Uthamapalayam,
Theni District.
- 5.The Block Development Officer,
Uthamapalayam,
Theni District.

6.M.S.Sekar

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.2810-Aa2-2020 dated 27.01.2021 on the file of the fourth respondent and quash the same as illegal and consequently for a direction forbearing the fourth respondent from reverting the petitioner from the post of Middle School Headmaster without following principles of natural justice and without considering the seniority of the petitioner.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.N.Satheeskumar
Additional Government Pleader
for R.1 to R.5

P.M.Vishnuvarthanan for R.6

ORDER

Heard the learned counsel on either side.

2. The writ petitioner questions her reversion from the post of Middle School Headmistress. The impugned order dated 27.01.2021 purports to implement the order dated 29.11.2019 made in W.P(MD)No.9499 of 2012 filed by the sixth respondent herein. The sixth respondent herein was in the promotion panel for the post of Middle School Headmaster in the year 2012 itself. He was overlooked and one S.A.Vetriselvan was promoted. Challenging the same, M.S.Sekar / the sixth respondent herein filed the said writ petition.



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3. During the pendency of the said writ petition, S.A.Vetriselvan passed away. However, after a careful consideration of the entire material on record, this Court concluded that M.S.Sekar was senior to S.A.Vetriselvan and that he was wrongfully overlooked. The following order was passed:

“9.In the above circumstances, this Writ Petition is allowed and the impugned order passed by the third respondent, dated 22.06.2012 is set aside and the official respondents are directed to promote the petitioner as Middle School Headmaster based on the counselling conducted on 27.06.2012 and treat the petitioner as senior to the fourth respondent. Since the fourth respondent is no more, the petitioner may also be posted in his place, if the post is still vacant or any other vacant place and treat the petitioner as senior to the fourth respondent, even in the promotional post, while preparing the seniority list. The petitioner is also entitled to all monetary benefits and the entire exercise shall be done by the official respondents within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.”

The aforesaid order has become final and has not been questioned. The Department was duty bound to implead the said order and promote M.S.Sekar



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to the said post. While doing so, the writ petitioner was relieved and reverted from her post. This was done without putting the writ petitioner on notice.

If the Department had put the writ petitioner on notice, the writ petitioner could have even established that while implementing the order of this Court, the petitioner cannot be made to suffer. A proper exercise as to who is really junior, could have been undertaken. If the petitioner / V.B.Amutha had demonstrated that some other person was junior to her, then that person would have been the casualty. Such an opportunity was never given to the writ petitioner.

4. In this view of the matter, the order of reversion *prima facie* requires interference. Since the writ petitioner had been relieved and the sixth respondent had assumed charge as Middle School Headmaster in the place of writ petitioner and more than 18 months have lapsed, I do not want to direct restoration. Instead, the fourth respondent is directed to issue formal notice to the writ petitioner calling upon her to show cause as to why the order of reversion should not be sustained. This notice will be given within a period of two weeks from the date of receipt of a copy of this order. It is open to the writ petitioner to demonstrate that she should not be reverted. After considering all the materials to be placed by the writ petitioner, a reasoned order will be passed by the fourth respondent. The right of the writ petitioner will abide by the



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outcome of the said proceedings. Such an order will be passed within a period of four weeks after the receipt of explanation from the writ petitioner.

5. This writ petition is disposed of accordingly. Consequently, connected miscellaneous petitions are closed. No costs.

09.11.2022

Index : Yes / No
Internet : Yes/ No
mga

To

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G.R.SWAMINATHAN, J.

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